FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 729—NATIONAL MARKETING QUOTA FOR PEANUTS

PROCLAMATION OF RESULTS OF REFERENDUM ON MARKETING QUOTAS FOR PEANUTS FOR THE CROPS PRODUCED IN THE THREE CALENDAR YEARS BEGINNING WITH THE CALENDAR YEAR 1941

I, Claude R. Wickard, Secretary of Agriculture, acting under and pursant to, and by virtue of, the authority vested in me by section 358 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

§ 729.2 *Proclamation of results of referendum on marketing quotas for peanuts for the crops produced in the three calendar years beginning with the calendar year 1941.* In the referendum of farmers engaged in the production of the crop of peanuts produced in the calendar year 1940, conducted by the Secretary of Agriculture on the 26th day of April, 1941, the total number of votes cast was 73,850, of which 64,462, or 87.3 per centum were in favor of the quota which had been proclaimed for the crop of peanuts produced in the calendar year 1941 and in favor of having quotas in effect for the three calendar years beginning with the calendar year 1941; 9,388, or 12.7 per centum were opposed to having marketing quotas in effect for the crop produced in the calendar year 1941 and to having marketing quotas in effect for the three calendar years beginning with the calendar year 1941. Therefore, the national marketing quota of 1,255,800,000 pounds, proclaimed[1] by the Secretary of Agriculture on April 5, 1941, will be in effect for the crop produced in the calendar year 1941 and marketing quotas for peanuts will be in effect for the three calendar years beginning with the calendar year 1941. (52 Stat. 31; 7 U.S.C. Supp. V, 1281, as amended by sec. 358 (b) of Public Law No. 27, 77th Congress, approved April 3, 1941.

Done at Washington, D. C., this 24th day of May 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-3745; Filed, May 26, 1941; 11:12 a. m.]

[1] 6 F.R. 1810.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[B.A.I. Order 373, Amendment 4]

PART 94—RINDERPEST AND FOOT-AND-MOUTH DISEASE; PROHIBITED AND RESTRICTED IMPORTATIONS

IMPORTATIONS PROHIBITED: BURMA

Pursuant to the authority conferred upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (Sec. 306, 46 Stat. 689; 19 U.S.C. 1306), § 94.1,[1] *Existence of rinderpest or foot-and-mouth disease; importations prohibited* [section 94.1 of B.A.I. Order 373], as amended, is hereby further amended by adding the name "Burma" to the list of countries herein, as I have determined that foot-and-mouth disease and rinderpest exist in the said country of Burma and I have so notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 4 to B.A.I. Order 373, shall be effective on and after May 27, 1941.

Done at Washington this 24th day of May, 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-3746; Filed, May 26, 1941; 11:12 a. m.]

[1] 5 F.R. 4260.

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TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER 7—PERSONNEL

PART 70—THE ARMY NURSE CORPS[1]

§ 70.1 *Composition.* (a) The Nurse Corps * * * of the Medical Department of the Army shall hereafter be known as the Army Nurse Corps, and shall consist of 1 superintendent, who shall be a graduate of a hospital-training school having a course of instruction of not less than 2 years; of as many chief nurses, nurses, and reserve nurses as may from time to time be needed and prescribed or ordered by the Secretary of War, and, in the discretion of the Secretary of War, of not exceeding 6 assistant superintendents, and, for each army or separate military force beyond the continental limits of the United States, 1 director and not exceeding 2 assistant directors of nursing service, all of whom shall be graduates of hospital-training schools and shall have passed such professional, moral, mental, and physical examination as shall be prescribed by the Secretary of War. Act July 9, 1918 (40 Stat. 879; 10 U.S.C. 161)

(b) Unless otherwise indicated, the term "nurse" as used in these and other regulations means any member of the Army Nurse Corps or any Reserve nurse in active service regardless of grade. The term "letter of appointment" will be understood to include the "letter of assignment" issued to a Reserve nurse taken into active service.

(c) The grades, with relative rank, which may be held by an Army nurse are, in the order of their importance, from the lowest to the highest:

(1) Nurse (with relative rank of second lieutenant).

(2) Chief nurse (with relative rank of first lieutenant).

(3) Assistant director (with relative rank of captain).

(4) Director (with relative rank of captain).

(5) Assistant superintendent (with relative rank of captain).

(6) Superintendent (with relative rank of major).

See section 10, national defense act, as amended by act June 4, 1920 (41 Stat. 767; 10 U.S.C. 164).

(d) The regulations in this part embrace primarily the administrative requirements of the Army Nurse Corps on duty with the Regular Army in time of peace, but wherever applicable they will govern the Army Nurse Corps of the Army of the United States in time of war. See § 70.9.*† [Par. 1]

*§§ 70.1 to 70.9 issued under authority contained in 40 Stat. 879; 41 Stat. 767; 10 U.S.C. 161, 164.

†The source of §§ 70.1 to 70.9, inclusive, is AR 40-20, Dec. 31, 1934, as amended by C-2, Nov. 17, 1939.

§ 70.2 *Rights and privileges.* The following rights and privileges are prescribed for the Army Nurse Corps by the Secretary of War in accordance with the act of June 4, 1920 (41 Stat. 768):

(a) They will be accorded the same obedience from enlisted men and patients in and about military hospitals as is accorded commissioned officers of grades corresponding to their relative rank.

(b) They are not eligible for detail as members of courts martial, but may pre-

[1] §§ 70.1 to 70.9 are added.

fer charges against any member of the military service.

(c) They are entitled to the same privileges and allowances, except mileage, as are prescribed for commissioned officers of grades corresponding to their relative ranks, viz, purchase privileges; insurance privileges; and in general all such personal privileges and perquisites, not specifically denied them, as go with commissioned rank and are customarily enjoyed by commissioned officers.

(d) They will be governed by the same censorship regulations as are prescribed for commissioned officers.*† [Par. 2]

§ 70.3 *Appointment and promotion*—(a) *General.* Original appointments in the Army Nurse Corps will be in the grade of nurse. Appointments in all grades, except that of superintendent, are made by The Surgeon General, with the approval of the Secretary of War. See act July 9, 1918 (40 Stat. 879; 10 U.S.C. 162).

(b) *Original appointment as nurse.* (1) Application for appointment should be made to The Surgeon General who will furnish blanks therefor.

(2) The applicant must be between 22 and 30 years of age, a graduate of an accredited high school, unmarried, a registered nurse, and a citizen of the United States.

(3) The physical standard and examination of applicants will be governed by the provisions of AR 40–100.[2]

(4) A professional examination will not ordinarily be required, though it may be when deemed necessary by The Surgeon General. An applicant will not be aligible for appointment unless she is a graduate of a school of nursing of approved standards, or has a record of desirable post-graduate training or experience. To ascertain the applicant's qualifications, The Surgeon General will request a certificate from the superintendent of the school from which the applicant graduated, showing—

(i) The date of the applicant's graduation.

(ii) The applicant's moral character and professional qualifications during her period of training, at the date of graduation, and, so far as known, at the time of application.

If the applicant was trained under a former superintendent, the latter may also be asked for a certificate. These certificates will be regarded as confidential. An applicant will submit such other evidence of fitness as may be required, and also an unmounted photograph of herself taken within the preceding 2 years.

(5) Applicants who fulfill the prescribed conditions as to their physical, moral, professional, and mental qualifications will be placed on the eligible list for appointment when their services may be required.

(6) No applicant will be appointed unless she shall agree to serve for 3 years, except during times of national emergency, when this requirement may be waived.*† [Par. 3]

§ 70.4 *Place of first assignment.* In time of peace the nurse's first assignment will ordinarily be to a station in the United States, to afford her an opportunity to become acquainted with military customs. The date of reporting will be noted on the back of the letter of appointment.*† [Par. 5]

§ 70.5 *Duties of a nurse, general.* The duties of a nurse in a military hospital are the same as those usually performed by a nurse in a civilian hospital of like general character. So far as practicable a daily tour of duty will not exceed 8 hours. She will not be required, except in emergency, to serve on night duty oftener than 1 month in every 3 months. If the hospital is of such size as to require it, one or more nurses may be assigned to duty as assistants to the principal chief nurse, such assignment not carrying with it any additional compensation.*† [Par. 13]

§ 70.6 *Quarters, allowances, and supply of furniture and linens*—(a) *Quarters in kind.* The allowance of quarters where quarters in kind are available will include, when practicable, 1 dining room, 1 kitchen, 1 sitting room, and the necessary toilet rooms, for the common use of all the nurses, and a separate bedroom for each nurse; also at hospitals where more than 5 nurses are stationed, an office and a separate sitting room for the principal chief nurse.

(b) *Supply of furniture and linens.* The Medical Department will supply the necessary furniture and care for the quarters of nurses on duty in hospitals. Sheets, towels, pillowcases, table linens, and other washable articles so supplied will be laundered as a part of the hospital linen.*† [Par. 14]

§ 70.7 *Subsistence at Army hospitals.* The commanding officer of a hospital will provide suitable meals and proper messing facilities, including necessary equipment and service for nurses on duty at his hospital. Promptly at the end of each month, or when departing from station on transfer, leave of absence, etc., each nurse will pay into the hospital fund in such manner as may be prescribed by the commanding officer a designated amount for credit to the nurses' mess for each day she has been furnished meals therein. At the Army and Navy General Hospital, Hot Springs, Ark., this subsistence charge will be 60 cents per day. At other hospitals, the charge will be the full amount of the nurses' authorized subsistence allowance; but if at any time the approved expenditures of the nurses' mess exceed its current income from individuals and its accumulated reserve in the hospital fund, the members will be charged such additional pro rata assessments as may be necessary to prevent a deficit. While patients in hospital, all nurses, active or retired, will pay into the general account of the hospital fund, on the subsistence basis of officer patients, except as provided in paragraph 6a (1) (b), AR 40–605.*†[3] [Par. 15]

§ 70.8 *Leave of absence*—(a) *Annual leave.* Nurses are entitled to leave of absence with pay and allowances at the rate of 30 days for each calendar year of service in the corps. The leave year will be reckoned in each case from the date of execution of oath, as it appears on her letter of appointment. A leave credit of 2½ days for each month of completed service and leave with pay under her appointment will be allowed, against which will be charged all absence on leave with pay, except absence on sick leave. Leave credits will not be allowed for periods of absence without pay. Unused leave credits may accumulate to an aggregate not exceeding 120 days. Leave to the amount of accumulated unused leave credits may be granted whenever the exigencies of the service permit. Final leave effective prior to discharge will be granted to the amount of accumulated credits. A leave credit accruing but unused under one appointment cannot be carried over and become available under a subsequent appointment, unless the service is continuous. See paragraph 4, AR 35–2020.[4]

(b) *Sick leave.* In addition to the ordinary leave hereinbefore referred to, a nurse incapacitated for duty by reason of illness or injury incurred in the line of duty is entitled to sick leave not exceeding 30 days in any one calendar year. See paragraph 4, AR 35–2020.[4]

(c) *Leave without pay.* Under exceptional circumstances a leave of absence without pay and allowances may be granted to a nurse for a period of not exceeding 90 days, if in the opinion of her commanding officer such privilege would not be in conflict with the interests of the service.*† [Par. 18]

§ 70.9 *Reserve nurses*—(a) *Enrollment and assignment.* (1) Reserve nurses will be appointed by selection from the roster of the enrolled nurses of the American National Red Cross Nursing Service, or from any other acceptable source.

(2) The Surgeon General will obtain from the American National Red Cross the names and addresses of qualified nurses available for service in the Army of the United States in emergency. So far as practicable these nurses will be procured through the American National Red Cross Nursing Service.

(3) Reserve nurses enrolled as provided for in (2) above must agree to serve in time of threatened or actual hostilities and to hold themselves in readiness to join for duty on the date indicated by the proper military authority.

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[2] Administrative regulations of the War Department relative to physical examination.

[3] Administrative regulations of the War Department relative to the Army and Navy General Hospital.

[4] Administrative regulations of the War Department relative to pay of Army nurses.

(4) When, in time of emergency, Reserve nurses report for active duty, the immediate commanding officer of each nurse so reporting will promptly have her physically examined (see AR 40–100).[2] If the physical examination of a Reserve nurse reporting for active duty is satisfactory, the immediate commanding officer will execute the requisite oath of office and forward it with the report of the physical examination direct to The Surgeon General, who, upon their receipt, will prepare and return direct to such commanding officer a letter of assignment to active service (W.D., S.G.O. Form No. 176). Chief nurses will be nominated by corps area commanders or by other appropriate assignment authority or, if so directed by the foregoing, by the immediate commanding officer concerned.

(b) *Regulations governing.* Upon reporting for active military service, Reserve nurses, as constituent members of the Army Nurse Corps, become subject to these regulations and all other regulations governing Army nurses, with the following exceptions:

(1) Agreement to serve for 3 years is not required.

(2) Except in cases of conduct prejudicial to the service, a Reserve nurse will, if she so desires, be furnished travel orders to her home before the order of relief from active duty shall take effect.* † [Par. 22]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41–3712; Filed, May 24, 1941; 9:29 a. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment No. 110, Civil Air Regulations]

PART 20—PILOT RATING

DUAL CONTROL AIRPLANES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 23rd day of May, 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601 (a) and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective May 23, 1941, § 20.616 of the Civil Air Regulations is amended to read as follows:

§ 20.616 *Dual control airplanes.* Airplanes equipped with fully or partially functioning dual controls shall not be operated with both control seats occupied unless one of such control seats is occupied (a) by a person possessed of at least a valid commercial pilot certificate, or (b) by a person possessed of at least a valid private pilot certificate and a valid instructor rating, or (c) by a person possessed of at least a valid private pilot certificate and whose Airman Rating Record has been endorsed by a duly authorized representative of the Administrator to the effect that such person has logged at least 200 hours of solo flight time and is competent to exercise the privilege granted by this section: *Provided,* That two persons may occupy such control seats if each such person is possessed of at least a valid private pilot certificate: *Provided further,* That where more than one passenger is carried for hire neither control seat shall be occupied by any person other than a properly certificated limited-commercial or commercial pilot.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 41–3734; Filed, May 26, 1941; 10:22 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3364]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF GIMBEL BROTHERS, INC., ET AL.[1]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods.* In connection with offer, etc., in commerce, of textile fabrics, (1) using the word "wool", or "woolens" or any other word or term descriptive of wool, to describe, designate or in any way refer to any fabric or product which is not composed wholly of wool, and (2) representing in any manner whatsoever that fabrics or products offered for sale or sold by respondent contain wool in greater quantity than is actually the case, prohibited; subject to the provision, however, in connection with prohibition (1) hereof, that in the case of fabrics or products composed in part of wool and in part of other fibers such words may be used as descriptive of the wool content if there is used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing and designating each constituent fiber or material thereof. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 114; 15 U.S.C., Supp. IV, sec. 45i) [Modified cease and desist order, Gimbel Brothers, Inc., et al., Docket 3364, May 8, 1941]

In the Matter of Gimbel Brothers, Inc., a Corporation, and Morris Kaplan & Son, Inc., a Corporation

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of May, A. D. 1941.

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on December 29, 1939, the Commission made its findings as to the facts herein and concluded therefrom that the respondent Gimbel Brothers, Inc., a corporation, had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on January 6, 1941, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on January 22, 1941, issued its final decree affirming the aforesaid order of the Commission by modifying said order in certain particulars;

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

It is ordered, That the respondent Gimbel Brothers, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of textile fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using the word "wool", or "woolens" or any other word or term descriptive of wool, to describe, designate or in any way refer to any fabric or product which is not composed wholly of wool: *Provided, however,* That in the case of fabrics or products composed in part of wool and in part of other fibers such words may be used as descriptive of the wool content if there is used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing and designating each constituent fiber or material thereof;

(2) Representing in any manner whatsoever that fabrics or products offered for sale or sold by it contain wool in greater quantity than is actually the case.

It is further ordered, That the respondent Gimbel Brothers, Inc., shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

It is further ordered, That the complaint be dismissed as to the respondent Morris Kaplan & Son., Inc., a corporation.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41–3748; Filed, May 26, 1941; 11:32 a. m.]

[2] Administrative regulations of the War Department relative to physical examination.

[1] Original order to cease and desist appears at 5 F.R. 216.

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 210—REGULATION S–X UNDER SECURITIES ACT, SECURITIES EXCHANGE ACT AND INVESTMENT COMPANY ACT

AMENDMENT NO. 4 TO REGULATION S–X

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly sections 7 and 19 (a) thereof, the Securities Exchange Act of 1934, particularly sections 12, 13, 15 (d) and 23 (a) thereof, and the Investment Company Act of 1940, particularly sections 8, 30 and 38 thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it by the said Acts, hereby amends Part 210[1] [Regulation S–X] as follows:

I. Section 210.1–01 [Rule 1–01] is amended by adding thereto the following additional paragraph:

§ 210.1–01 *Application of Part 210.*

* * * * *

(e) Registration statements and annual reports under the Investment Company Act of 1940.

II. Section 210.1–02 [Rule 1–02] is amended by deleting the present definition of an "Investment Company" and inserting the following in lieu thereof:

§ 210.1–02 *Definitions of terms used in Part 210.*

* * * * *

Investment Company. The term "investment company" means an investment company as defined in the Investment Company Act of 1940.

III. Section 210.6–02 [Rule 6–02] is amended by deleting captions 7, 8, 9 and 10, and by inserting the following captions in lieu thereof:

§ 210.6–02 *Balance sheets.*

* * * * *

7. *Investments in securities.* Investments included under captions 7 to 10 shall be shown in the balance sheet either at value, showing cost parenthetically, or at cost, showing value parenthetically. For the purpose of this § 210.6–02 [Rule 6–02] "value" has the meaning defined in section 2 (a) (39) (B) of the Investment Company Act of 1940. (Sec. 2, 54 Stat. 790). Reserves for unrealized depreciation of securities, even if carried on the books, need not be shown if securities are shown in balance sheet at value; if securities are shown in the balance sheet at cost, such reserves if carried on the books shall be shown as deductions under appropriate captions. For securities which have been written down below cost in connection with a quasi-reorganization, such written-down amount may be stated in lieu of cost, provided the date of and a brief statement as to such write-down are shown in a footnote. State in the balance sheet for each caption the basis of determining the amount at which investments are carried.

(a) *Marketable securities.* Show separately securities of other investment persons, exclusive of those to be included under caption 9 below.

(b) *Other securities.* Include all securities not included under subcaption 7 (a) above, or caption 9 or 15 below.

(c) *Reserves for unrealized depreciation in value of securities.*

8. *Investments, other than securities.* State separately each major class. See instructions to caption 7.

9. *Investments in securities of affiliates.* State separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (a) eliminated and (b) not eliminated. See instructions to caption 7.

10. *Indebtedness of affiliates.* State separately in the registrant's balance sheet that indebtedness which in the related consolidated balance sheet is (a) eliminated and (b) not eliminated. See instructions to caption 7.

IV. Section 210.6–02 [Rule 6–02] is further amended by deleting the second sentence of caption 22, and by inserting the following sentence in lieu thereof:

"If assets are carried in excess of cost, the amount of such excess shall be shown as reserve for unrealized appreciation arising from revaluation of assets either here or as a separate item under caption 24—Surplus."

As amended caption 22 of § 210.6–02 [Rule 6–02] reads as follows:

22. *Reserves, not shown elsewhere.* State separately in the balance sheet the total of each major class. If assets are carried in excess of cost, the amount of such excess shall be shown as reserve for unrealized appreciation arising from revaluation of assets either here or as a separate item under caption 24—Surplus.

V. Section 210.6–02 [Rule 6–02] is further amended by adding the following preface to the second sentence of caption 24 (c) thereof:

"In the case of closed-end companies, as defined in the Investment Company Act of 1940, indicate clearly * * *"

As amended caption 24 (c) of §210.6–02 [Rule 6–02] reads as follows:

24. * * * (c) an analysis of each surplus account setting forth the information prescribed in § 210.11–02 [Rule 11–02] shall be given for each period for which a profit and loss statement is filed in the form of a separate statement of surplus, and shall be referred to in the balance sheet. In the case of closed-end companies, as defined in the Investment Company Act of 1940, indicate clearly in this analysis gains or losses from transactions in securities of the person for which the statement is filed and show in a note (1) the number of shares and principal amount of bonds purchased during the period and the cost thereof, and (2) the number of reacquired shares and principal amount of bonds sold during the period, the cost, the amount received from sale, and the gain or loss realized.

VI. Section 210.6–04 [Rule 6–04] is amended by adding the following sentence to Schedule XIV:

"This schedule need not be filed, however, if all the information called for by § 210.12–17 [Rule 12–17] is included in the profit and loss or income statement."

As amended the instructions for Schedule XIV of § 210.6–4 [Rule 6–04] read as follows:

§ 210.6–04 *What schedules are to be filed.* The schedule prescribed by § 210.12–17 [Rule 12–17] shall be filed as to all income received from dividends included in each profit and loss statement filed. This schedule need not be filed, however, if all the information called for by § 210.12–17 [Rule 12–17] is included in the profit and loss or income statement.

VII. Section 210.12–19 [Rule 12–19] is amended in the following manner:

(a) By deleting the first three sentences of Note 2 (a), and by inserting the following in lieu thereof:

Indicate by an appropriate symbol those securities which are non-income-producing securities. Evidences of indebtedness and preferred shares may be deemed to be income-producing if, on the respective last interest payment date or date for the declaration of dividends prior to the date of the related balance sheet, there was only a partial payment of interest or a declaration of only a partial amount of the dividends payable; in such case, however, each such issue shall be indicated by an appropriate symbol referring to a note to the effect that, on the last interest or dividend date, only partial interest was paid or partial dividends declared. If, on such respective last interest or dividend date, no interest was paid or no dividend declared, the issue shall not be deemed to be income-producing.

(b) By deleting Note 2 (b), and by inserting the following in lieu thereof:

Each issue shall be listed separately: *Provided, however,* That an amount not exceeding five percent of the total of column H may be listed in one amount as "Miscellaneous securities," provided the securities so listed have been held for not more than one year prior to the date of the related balance sheet, and have not previously been reported by name to the shareholders of the person for which the statement is filed or to any exchange, or set forth in any registration statement, application, or annual report or otherwise made available to the public.

(c) By adding the following sentences to Note 4 thereof:

For securities which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given. State in a footnote to this column the aggregate cost for purposes of the Federal income tax.

[1] 5 F.R. 954.

(d) By adding the following sentence to Note 5 thereof:

If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

As amended the Notes to § 210.12–19 [Rule 12–19] read as follows:

§ 210.12–19 *Investments in securities—marketable.*

* * * * *

1. The required information is to be given as to all securities which were held at any time within the period. As to any class of such securities, none of which were held at the end of the most recent period, the classification required by note 2 need not be made.

2. (a) Indicate by an appropriate symbol those securities which are non-income-producing securities. Evidences of indebtedness and preferred shares may be deemed to be income-producing if, on the respective last interest payment date or date for the declaration of dividends prior to the date of the related balance sheet, there was only a partial payment of interest or a declaration of only a partial amount of the dividends payable; in such case, however, each such issue shall be indicated by an appropriate symbol referring to a note to the effect that, on the last interest or dividend date, only partial interest was paid or partial dividends declared. If, on such respective last interest or dividend date, no interest was paid or no dividend declared, the issue shall not be deemed to be income-producing. Common shares shall not be deemed to be income-producing unless, during the last year preceding the date of the related balance sheet, there was at least one dividend paid upon such common shares. List separately (A) bonds; (B) preferred shares; (C) common shares. Within each of these subdivisions classify according to type of business, insofar as practicable, e. g., investment companies, railroads, utilities, banks, insurance companies, or industrials. Give totals for each group, subdivision, and class.

(b) Each issue shall be lasted separately; *Provided, however,* That an amount not exceeding five percent of the total of column H may be listed in one account as "Miscellaneous securities," provided the securities so listed have been held for not more than one year prior to the date of the related balance sheet, and have not previously been reported by name to the shareholders of the person for which the statement is filed or to any exchange, or set forth in any registration statement, application, or annual report or otherwise made available to the public.

3. Indicate any securities subject to option at the end of the most recent period and state in a note the amount subject to option, the option prices, and the dates within which such options may be exercised.

4. Columns F, G, and H shall be totaled. The total of column G at the close of the most recent period shall agree with the related balance sheet caption. For securities which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given. State in a footnote to this column the aggregate cost for purposes of the Federal income tax.

5. If the amount shown in column G differs from the amount shown in either column F or H, state the basis of determining the amount in column G. If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

6. If market value is determined on any other basis than closing prices reported on any national securities exchange, explain such other basis in a note.

VIII. Section 210.12–20 [Rule 12–20] is amended in the following manner:

(a) By deleting the first three sentences of Note 2 (a), and by inserting the following sentences in lieu thereof:

Indicate by an appropriate symbol those securities which are non-income-producing securities. Evidences of indebtedness and preferred shares may be deemed to be income-producing if, on the respective last interest payment date or date for the declaration of dividends prior to the date of the related balance sheet, there was only a partial payment of interest or a declaration of only a partial amount of the dividends payable; in such case, however, each such issue shall be indicated by an appropriate symbol referring to a note to the effect that, on the last interest or dividend date, only partial interest was paid or partial dividends declared. If, on such respective last interest or dividend date, no interest was paid or no dividend declared, the issue shall not be deemed to be income-producing.

(b) By adding the following sentences to Note 4 thereof:

For securities which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given. State in a footnote to this column the aggregate cost for purposes of the Federal income tax.

(c) By adding the following sentence to Note 5 thereof:

If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

As amended the Notes to § 210.12–20 [Rule 12–20] read as follows:

§ 210.12–20 *Investments in securities—Other than marketable securities.*

* * * * *

1. The required information is to be given as to all securities which were held at any time within the period. As to any class of such securities, none of which were held at the end of the most recent period, the classification required by note 2 need not be made.

2. (a) Indicate by an appropriate symbol those securities which are non-income-producing securities. Evidences of indebtedness and preferred shares may be deemed to be income-producing if, on the respective last interest payment date or date for the declaration of dividends prior to the date of the related balance sheet, there was only a partial payment of interest or a declaration of only a partial amount of the dividends payable; in such case, however, each such issue shall be indicated by an appropriate symbol referring to a note to the effect that, on the last interest or dividend date, only partial interest was paid or partial dividends declared. If, on such respective last interest or dividend date, no interest was paid or no dividend declared, the issue shall not be deemed to be income-producing. Common shares shall not be deemed to be income-producing unless, during the last year preceding the date of the related balance sheet, there was at least one dividend paid upon such common shares.

(b) Each issue shall be separately listed.

3. Indicate any securities subject to option at the end of the most recent period and state in a note the amount subject to option, the option prices, and the dates within which such options may be exercised.

4. Columns F, G, and H shall be totaled. The total of column G at the close of the most recent period shall agree with the related balance sheet caption. For securities which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given. State in a footnote to this column the aggregate cost for purposes of the Federal income tax.

5. If the amount shown in column G differs from the amount shown in column F, state the basis of determining the amount in column G. If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

6. Determine, as of the balance sheet date, by an appropriate method, the estimated value of each item listed. If the amount in column H differs from the amount in column F or G, state the basis of determining the amount in column H.

IX. Section 210.12–21 [Rule 12–21] is amended in the following manner:

(a) By adding the following sentence to Note 5 thereof:

For investments which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given.

(b) By adding the following sentence to Note 6 thereof:

If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

As amended Notes 5 and 6 of § 210.12–21 [Rule 12–21] read as follows:

§ 210.12–21 *Investments other than securities.*

* * * * *

5. All money columns shall be totaled. The total of column G at the close of the most recent period shall agree with the related balance sheet caption. For investments which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given.

6. If the amount shown in column G differs from the amount shown in column F, state the basis of determining the amount in column G. If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

X. Section 210.12–22 [Rule 12–22] is amended in the following manner:

(a) By adding the following sentence to Note 5 thereof:

For investments which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given.

(b) By adding the following sentence to Note 6 thereof:

If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

As amended Notes 5 and 6 of § 210.12–22 [Rule 12–22] read as follows:

§ 210.12–22 *Investments of securities of affiliates.*

* * * * *

5. Columns F, G and H shall be totaled. The total of column G at the close of the most recent period shall agree with the related balance sheet caption. For investments which have been written down in connection with a quasi-reorganization, such written-down amounts may be stated in column F in lieu of costs, provided an appropriate explanation is given.

6. If the amount shown in column G differs from the amount in column F, state the basis of determining the amount in column

G. If the amounts to be shown in column G are identical with the amounts to be shown in column F or H, a statement to that effect will suffice.

(Sec. 7, 48 Stat. 78; 15 U.S.C. 77g; sec. 19, 48 Stat. 85, sec. 209, 48 Stat. 908; 15 U.S.C. 77s; sec. 12, 48 Stat. 892; 15 U.S.C. 781; sec 13, 48 Stat. 894; 15 U.S.C 78m; sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377; 15 U.S.C. 78o; Sec. 23, 48 Stat. 901, sec. 8, 49 Stat. 1379; 15 U.S.C. 78w; sec. 8, 54 Stat 803, sec. 30, 54 Stat. 836, sec. 38, 54 Stat. 841) [Rules 1–01, 1–02, 6–02, 6–04, 12–19, 12–20, 12–21, and 12–22, effective June 15, 1941]

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41–3719; Filed, May 24, 1941; 11:46 a. m.]

PART 240—RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE CONCERNING FILING OF ANNUAL REPORTS UNDER THE ACT BY COMPANIES REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940

Acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly sections 13, 15 (d) and 23 (a) thereof (Sec. 13, 48 Stat. 894; 15 U.S.C. 78m; sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377; 15 U.S.C. 78o), and deeming such action appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it by the said Act, the Commission hereby takes the following action:

I. Paragraph (a) of § 240.13a–7 [Rule X-13A–7] is amended to read as follows:

§ 240–13a–7 *Companies registered under the Investment Company Act of 1940.*[1] (a) Notwithstanding §§ 240.13A–1 and 240.13A–2 [Rules X-13A–1 and X-13A–2], any registrant for which form 10–K, 15–K or 17–K is appropriate for annual reports pursuant to section 13 of the Act (Sec. 13, 48 Stat. 894; 15 U.S.C. 78m) and which has filed a registration statement on the appropriate form prescribed under section 8 (b) of the Investment Company Act of 1940 (Sec. 8, 54 Stat. 803), may file copies of such registration statement as its annual report pursuant to said section 13 (Sec. 13, 48 Stat. 894), provided the registration statement covers the fiscal period that would be covered by a report on form 10–K, 15–K or 17–K, as the case may be, and provided such report is filed within the period prescribed for filing an annual report pursuant to section 13 (Sec. 13, 48 Stat. 894; 15 U.S.C. 78m) or on or before July 15, 1941, whichever is later. This rule shall not apply, however, to any company which has filed a registration statement which itself consists in whole or in part of copies of information and documents filed under the Securities Act of 1933 (48 Stat. 74, as amended; 15 U.S.C. 78a, et seq.) or the Securities Exchange Act of 1934 (48 Stat. 881, as amended; 15 U.S.C. 78a, et seq.) and which is filed pursuant to rules and regulations under section 8 (c) of the Investment Company Act of 1940 (54 Stat. 803). * * *

II. Paragraph (a) of § 240.15d–4 [Rule X-15D–4] is amended to read as follows:

§ 240.15d–4 *Companies registered under the Investment Company Act of 1940.*[2] (a) Notwithstanding §§ 240.15d–1 and 240.15d–2 [Rules X-15D–1 and X-15D–2], any registrant for which form 1–MD or 2–MD is appropriate for annual reports pursuant to section 15 (d) of the Act (Sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377; 15 U.S.C. 780), and which has filed a registration statement on the appropriate form prescribed under section 8 (b) of the Investment Company Act of 1940 (54 Stat. 803), may file copies of such registration statement as its annual report pursuant to said section 15 (d) (Sec. 15, 48 Stat. 895, sec, 3, 49 Stat. 1377; 15 U.S.C. 780), provided the registration statement covers the period that would be covered by a report on form 1–MD or 2–MD, as the case may be, and provided such report is filed within the period prescribed for filing an annual report pursuant to § 15 (d) (Sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377; 15 U.S.C. 780), or on or before July 15, 1941, whichever is later. This rule shall not apply, however, to any company which has filed a registration statement which itself consists in whole or in part of copies of information and documents filed under the Securities Act of 1933 (48 Stat. 74, as amended; 15 U.S.C. 78a, et seq.) or the Securities Exchange Act of 1934 (48 Stat. 881, as amended; 15 U.S.C. 78a, et seq.) and which is filed pursuant to rules and regulations under section 8 (c) of the Investment Company Act of 1940 (54 Stat. 803. * * *

Effective May 23, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41–3720; Filed, May 24, 1941; 11:47 a. m.]

PART 270—INVESTMENT COMPANY ACT OF 1940

RULES ADOPTING FORM N–8B–1 [3]

Acting pursuant to the Investment Company Act of 1940, particularly sections 8 (b), 8 (c), 38 (a), and 45 (a) thereof, the Securities and Exchange Commission hereby adopts §§ 270.8b–2, 270.8c–1, and 270.45a–1 [Rules N-8B–2, N-8C–1, and N-45A–1], to read as follows:

§ 270.8b–2 *Form for registration of management investment companies.* Form N-8B–1 entitled "Registration Statement of Management Investment Companies pursuant to section 8 (b) of the Investment Company Act of 1940" (Sec. 8, 54 Stat. 803) is hereby prescribed as the form of the registration statement for management investment companies, other than companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. (Sec. 8, 54 Stat. 803, sec. 38, 54 Stat. 841, sec. 45, 54 Stat. 845) [Rule N-8B–2, effective May 23, 1941]

§ 270.8c–1 *Use of currently effective registration statements under Securities Act of 1933 or Securities Exchange Act of 1934 in lieu of Form N-8B–1.* (a) A registered management investment company which has securities registered under the Securities Act of 1933, in lieu of filing the registration statement required by § 270.8b–2 [Rule N-8B–2], may file four copies of a registration statement consisting of the following:

(1) A facing page clearly indicating that such registration statement is filed pursuant to this section.

(2) Copies of its most recent currently effective registration statement under the Securities Act of 1933.

(3) Copies of any reports filed pursuant to section 15 (d) of the Securities Exchange Act of 1934 (Sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377; 15 U.S.C. 78o) and the rules and regulations thereunder, which have been filed subsequent to the registration statement referred to under subparagraph (2).

(4) A separate report describing any material changes in the information contained in the registration statement referred to in subparagraph (2) if annual reports pursuant to section 15 (d) of the Securities Exchange Act of 1934 (sec. 15, 48 Stat. 895, sec. 3, 49 Stat. 1377, 15 U.S.C. 78o) have not been filed by the company for every year following the filing of the registration statement referred to in subparagraph (2).

(5) The answers to the following items of form N-2B–1: 9 to 11, inclusive, 13 to 17, inclusive; 19; 20; 22 to 26, inclusive; 30; 31; 32 (i); 32 (j); 33 (i); 33 (j); 34 to 51, inclusive; and 65 (to the extent that the information called for by that item is not contained in the registration statements and reports required by subparagraphs (2) and (3). Open-end companies, in addition to the foregoing items, must furnish the answers to items 52 to 64 inclusive, of form N-8B–1.

(6) Any financial statements or exhibits required by form N-8B–1 which are not included in the documents filed pursuant to subparagraphs (2), (3), and (4); and

(7) The signature page required by form N-8B–1, duly executed in accordance with the instructions in such form.

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[1] 6 F.R. 73.

[2] Filed as part of the original document.

[3] 6 F.R. 74.

(b) A management investment company which has securities registered on a national securities exchange pursuant to the Securities Exchange Act of 1934, in lieu of filing the registration statement required by rule N-8B-2, may file four copies of a registration statement consisting of the following:

(1) A facing page clearly indicating that such registration statement is filed in accordance with this section;

(2) Copies of its most recent currently effective registration statement under the Securities Exchange Act of 1934 and all reports filed pursuant to section 13 of that Act (Sec. 13, 48 Stat. 894; 15 U.S.C. 78m) and the rules and regulations thereunder;

(3) The answers to the following items of form N-8B-1: 8 to 17, inclusive; 19; 20; 22 to 26, inclusive; 30; 31; 32 (i); 32 (j); 33 (i); 33 (j); 34 to 51, inclusive; and 65 (to the extent that the information called for by that item is not contained in the registration statements and reports required by subparagraph (2)). Open-end companies, in addition to the foregoing items, must furnish the answers to items 52 to 64, inclusive;

(4) Any financial statements or exhibits required by Form N-8B-1 which are not included in the documents filed pursuant to subparagraphs (2) and (3); and

(5) The signature page required by form N-8B-1 duly executed in accordance with the instructions in such form. (Sec. 8, 54 Stat. 803, sec. 38, 54 Stat. 841, sec. 45, 54 Stat. 845) [Rule N-8C-1, effective May 23, 1941]

§ 270.45a-1 *Confidential treatment of names and addresses of dealers of open-end Companies.* (a) Exhibit C required by form N-8B-1 shall be the subject of confidential treatment and shall not be made available to the public, except that the Commission may by order make such exhibit available to the public if, after appropriate notice and opportunity for hearing, it finds that public disclosure of such material is necessary or appropriate in the public interest or for the protection of investors.

(b) Four copies of exhibit C of Form N-8B-1 shall be filed by each registered open-end company at the time the registration statement prescribed by rule N-8B-2 or N-8C-1 is filed with the Commission. Such copies shall be enclosed in a separate envelope, marked "Confidential" and addressed to the Director of the Investment Company Division, Securities and Exchange Commission, Washington, D. C. (Sec. 8, 54 Stat. 803, sec. 38, 54 Stat. 841, sec. 45, 54 Stat. 845) [Rule N-45A-1, effective May 23, 1941]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3721; Filed, May 24, 1941; 11:47 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50396]

PART 6—INVOICES, ENTRY, AND ASSESSMENT OF DUTIES

DURESS ENTRY CERTIFICATES, REGULATIONS AMENDED

MAY 22, 1941.

Section 6 20 [Art. 303 of the Customs Regulations of 1937] is amended as follows:

§ 6.20 *Additions because of advances by appraiser pending reappraisement.* (a) An importer making such addition on entry shall make his certificate at the time of entry on customs Form 7587.

(b) Such certificate shall be filed in triplicate and the collector shall securely attach all copies thereof to the invoice and summary sheet. Such documents shall be sent to the appraiser who shall note on the duplicate and triplicate copies of the certificate, when the initial advance cited by the importer was made at the same port, whether the importer's citation of the pending case is correct. If such citation is erroneous, the proper one should be indicated thereon. The duplicate copy of the certificate, with the entry number and the name of the port of entry endorsed thereon, shall be detached from the invoice and summary sheet and forwarded, together with a notice list on customs Form 6447, to the Assistant Attorney General, Reappraisement Division, 201 Varick Street, New York, N. Y., at the time the invoice, summary sheet, and original and triplicate copies of the certificate are returned to the collector. (Secs. 503 (b), 624, 46 Stat. 731, 759; 19 U.S.C. 1503 (b), 1624)

The amendment to paragraph (a) shall be effective January 1, 1942, at which time the new customs Form 7587 will be available for sale to importers.

[SEAL] W. R. JOHNSON,
Commissioner of Customs.

Approved:

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41-3722; Filed, May 24, 1941; 12:16 p. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINISTRATION

[Docket No. FDC-21]

PART 15—WHEAT FLOUR AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

IN THE MATTER OF A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: (A) FLOUR, WHITE FLOUR, WHEAT FLOUR, PLAIN FLOUR; (B) ENRICHED FLOUR; (C) BROMATED FLOUR; (D) ENRICHED BROMATED FLOUR; (E) DURUM FLOUR; (F) SELF-RISING FLOUR, SELF-RISING WHITE FLOUR, SELF-RISING WHEAT FLOUR; (G) ENRICHED SELF-RISING FLOUR; (H) PHOSPHATED FLOUR, PHOSPHATED WHITE FLOUR, PHOSPHATED WHEAT FLOUR; (I) WHOLE WHEAT FLOUR, GRAHAM FLOUR, ENTIRE WHEAT FLOUR; (J) BROMATED WHOLE WHEAT FLOUR; (K) WHOLE DURUM WHEAT FLOUR; (L) CRUSHED WHEAT, COARSE GROUND WHEAT; (M) CRACKED WHEAT; (N) FARINA; (O) ENRICHED FARINA; (P) SEMOLINA

Final Order

By virtue of authority vested in me by the provisions of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1046, 21 U.S.C. sec 341 (Supp. V, 1939); the Reorganization Act of 1939, 53 Stat. 561 ff., 5 U.S.C. sec. 133-133r (Supp. V, 1939); Reorganization Plans No. I (53 Stat. 1423, 4 F.R. 2727) and No. IV (5 F.R. 2421); upon the basis of evidence received at the hearings herein; and upon consideration of the exceptions filed against the proposed order issued by the Acting Federal Security Administrator on March 28, 1941 (6 F.R. 1729-1737), the following order is promulgated hereby:

Findings of Fact

1. The food commonly and usually known as "flour", "white flour", "wheat flour", or "plain flour", is manufactured from wheat, both hard and soft, other than durum wheat and red durum wheat.

2. Flour is used primarily for making white bread and biscuit, and consumers of flour normally expect that it will be suitable for these purposes.

3. In making flour the wheat is first cleaned. It is usually tempered. It is then ground and bolted so as to separate the inner portion of the wheat berry, known as the endosperm, from the outer portions, known as the bran coat, or from both bran coat and germ. Flour consists essentially of finely ground endosperm. In the milling process the separation of bran coat and germ from endosperm is never complete, but a certain degree of separation is necessary to produce flour which will make acceptable white bread and biscuit.

4. Where all the flour milled from the wheat used is combined without separation into grades, the flour is called "straight flour." That portion which is most nearly free of bran coat and germ is frequently taken off and sold as "patent flour." The remaining portion, which contains more bran coat and germ than straight flour, is known as "clear flour."

5. "Straight flours" will make acceptable white bread and biscuit. As the degree of removal of bran coat and germ is lessened, flours become progessively less desirable for such purposes until so much bran coat and germ remain that acceptable white bread and biscuit cannot be made. However, such products are suitable for other food uses and are usually sold under such designations

as "low-grade flour" and "second clear flour." Products containing even more bran coat and germ are sold usually as animal feed.

6. A reasonably accurate criterion of the degree of separation of bran coat, or bran coat and germ, from endosperm is the ash content of the flour, since the ash content of the bran coat is some 20 to 25 times that of the endosperm and the ash content of the germ some 10 to 15 times that of the endosperm.

7. In general, a limit on ash content can be used to distinguish between flours which will make acceptable white bread and biscuit and those which will not, but the limit is not the same for high protein flours (hard wheat flours) and low protein flours (soft wheat flours). In high protein flours, particularly those used for breadmaking, a somewhat lesser degree of separation is acceptable than in low protein flours.

8. In most straight flours the percent of ash is not more than one-twentieth of the percent of protein and is usually somewhat less.

9. Increased amounts of bran coat and germ which increase the percent of ash to a point where it exceeds that of straight flour by more than 0.3 result in products which will not make acceptable white bread or biscuit. Products containing more ash than one-twentieth of the protein plus 0.3 percent are not generally sold in the household trade and are not generally used to make white bread or biscuit.

10. A maximum ash limit of one-twentieth of the protein plus 0.3 percent will distinguish reasonably effectively between flour suitable for making white bread and biscuits and products not suitable for those purposes.

11. Variation in the moisture content of flour after manufacture causes variations in the percent of protein and ash. The effect of such variations can be eliminated by calculating the percent of protein and ash to a moisture-free basis. When such calculation is made the figure 0.35 would be the approximate equivalent of, and should be substituted for, the figure 0.3 in Findings 9 and 10.

12. All flour contains some moisture. Excessive moisture, however, impairs the keeping quality of flour and unnecessarily increases its weight. A reasonable limit for moisture, which is not exceeded in good milling practice, is 15 percent.

13. Flour is a finely ground product and the degree of fineness is a distinguishing characteristic of flour. Such fineness is secured in good milling practice by bolting the flour through a cloth having openings not larger than those of woven wire cloth designated "149 micron (No. 100)" in table I of "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards.

14. Malted wheat is sometimes mixed with wheat used for making flour, or malted wheat flour or malted barley flour is sometimes added to flour, in small amounts so as to compensate for natural deficiencies of enzymes necessary for breadmaking. A reasonable maximum limit for malted barley flour so added is 0.25 percent.

15. A satisfactory and reliable method for the determination of ash content of flour is that prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 4th edition, 1935, page 207, under the caption "Method I—Official." This method has recently been republished in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 212, under the caption "Method I—Official." This method is well-known and widely used when examining flour for its ash content.

16. A satisfactory and reliable method for determination of moisture in flour is that prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 4th edition, 1935, page 206, under the caption "Vacuum Oven Method—Official." The same method has recently been republished in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 211, under the caption "Vacuum Oven Method—Official." This method is well-known and widely used when examining flour for its moisture content.

17. The protein content of flour is ordinarily calculated from the nitrogen content of the flour by multiplying the nitrogen content by 5.7. A satisfactory and reliable chemical method for determination of nitrogen is that prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 4th edition, 1935, page 25, under the caption "Kjeldahl-Gunning-Arnold Method—Official." The same method has been recently republished in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 26, under the caption "Kjeldahl-Gunning-Arnold Method—Official." This method is well-known and widely used for determining nitrogen in flour.

18. Flour as first prepared is slightly colored by the natural coloring in the wheat. It is a common practice in the milling industry to bleach the flour by treating it with one or more of the following bleaches or bleaching agents:

(1) Oxides of nitrogen.
(2) Chlorine.
(3) Nitrosyl chloride.
(4) Nitrogen trichloride.
(5) Benzoyl peroxide in a carrier consisting of either potassium alum and magnesium carbonate, or a mixture of calcium sulphate and magnesium carbonate, the weight of the carrier being in no case more than six times that of the benzoyl peroxide.

19. Besides the bleaching effect, chlorine, nitrosyl chloride, and nitrogen trichloride have an artificial aging effect on the flour so treated. Only enough of the bleaching agent or agents to accomplish such desired effects is used. Excessive quantities impair the flour.

20. Flour so bleached is whiter than freshly milled unbleached flour, but is similar in color to unbleached flour naturally aged. Since about 1920 it has been prevailing trade practice to label flours treated with bleaching agents as "bleached." Many consumers have come to distinguish between bleached and unbleached flour, and are familiar with and understand the word "bleached" as applied to flour. The word "bleached", as so applied, has become the common name of the ingredients added to the flour through the bleaching process.

21. Some flour of high protein content, to which small amounts of potassium bromate have been added, can be made into dough which is easier to handle and which produces loaves of greater volume than dough made from the same flour to which no potassium bromate has been added. Addition of potassium bromate to flour has been practiced on a small scale, but the practice is increasing. Flour to which potassium bromate has been added is labeled "bromated" and sold exclusively to bakers. The name "bromated flour" is commonly and usually applied to differentiate this product from flour.

22. The amount of potassium bromate added depends on the properties of flour to which it is added, and varies in different crop years. The amount ordinarily used does not exceed 40 parts per million in domestic trade, or 75 parts per million in export trade. An excess of potassium bromate in dough has undesirable effects on bread. A reasonable minimum protein content of the flour used in making bromated flour is 13.5 percent, which is approximately equivalent to 15 percent when calculated to a moisture-free basis.

23. The food commonly and usually known as "self-rising flour", "self-rising white flour", or "self-rising wheat flour", is prepared by intimately mixing flour, a leavening agent, and salt for seasoning.

24. The leavening agent usually consists of a mixture of sodium bicarbonate and monocalcium phosphate. Sodium acid pyrophosphate, an acid salt of somewhat less neutralizing value than monocalcium phosphate, is sometimes substituted for monocalcium phosphate.

25. When self-rising flour is used in baking, carbon dioxide gas is evolved through the chemical reaction of the sodium bicarbonate and the acid leavening ingredient. The gas so evolved leavens or raises the dough, giving the baked product one of its characteristic qualities. To accomplish this satisfactorily a certain minimum amount of carbon dioxide must be evolved. The amount of carbon dioxide gas which will be effective for the purpose of proper leavening is not

less than 0.5 percent of the weight of the self-rising flour.

26. To avoid discoloration and other undesired characteristics in the baked product, the amounts of sodium bicarbonate and acid leavening ingredient must be so proportioned that no sodium bicarbonate remains unacted upon in the baked product. Unnecessarily large amounts of the leavening substances leave objectionable quantities of residues in the baked product. A reasonable maximum limit for the leavening agents in self-rising flour is four and one-half parts to each hundred parts of flour.

27. A satisfactory and reasonably accurate method for determining the amount of carbon dioxide evolved from self-rising flour is the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, beginning on page 186 under "Gasometric Method with Chittick's Apparatus—Official", except that the following procedure is substituted for the procedure specified therein under "6—Determination":

Weigh 17 grams of the official sample into flask A, add 15–20 glass beads (4–6 mm. diameter) and connect this flask with the apparatus (fig. 22). Open stopcock C and by means of the leveling bulb E bring the displacement solution to the 25 cc. graduation above the zero mark. (This 25 cc. is a partial allowance for the volume of acid to be used in the decomposition). Allow the apparatus to stand 1–2 minutes to insure that the temperature and pressure within the apparatus are the same as those of the room. Close the stopcock, lower the leveling bulb somewhat to reduce the pressure within the apparatus, and slowly run into the decomposition flask from burette F 45 cc. of sulfuric acid (1+5). To prevent the liberated carbon dioxide from escaping through the acid burette into the air, keep the displacement solution in the leveling bulb at all times during the decomposition at a lower level than that in the gas-measuring tube. Rotate and then vigorously agitate the decomposition flask for three minutes to mix the contents intimately. Allow to stand for ten minutes to bring to equilibrium. Equalize the pressure in the measuring tube by means of the leveling bulb and read the volume of gas from the zero point on the tube. Deduct 20 cc. from this reading (this 20 cc. together with previous allowance of 25 cc. compensates for the 45 cc. acid used in the decomposition). Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in Table 24—Chapter XLIII for the temperature and pressure observed. Divide the corrected reading by 100 to obtain the apparent percent by weight of carbon dioxide in the official sample.

Correct the apparent percent of carbon dioxide to compensate for varying atmospheric conditions by immediately assaying a synthetic sample by the same method in the same apparatus.

Prepare the synthetic sample with 16.2 grams of flour, 0.30 gram of monocalcium phosphate, 0.30 gram of salt, and a sufficient quantity of sodium bicarbonate U. S. P. (dried over sulfuric acid) to yield the amount of carbon dioxide recovered in assay of official sample. Determine this quantity by multiplying weight of carbon dioxide recovered in assay of official sample by 1.91.

Divide the weight of carbon dioxide recovered from synthetic sample by weight of carbon dioxide contained in sodium bicarbonate used.

Divide the quotient into the apparent percent of carbon dioxide in official sample to obtain percent carbon dioxide evolved from the official sample.

28. There has recently been placed on the market a self-rising flour containing, in addition to the usual ingredients and in partial substitution for sodium bicarbonate, small amounts of calcium carbonate and light magnesium carbonate. Calcium carbonate and light magnesium carbonate react slowly with the acid ingredient when this self-rising flour is used in baking, but the reaction is incomplete and some calcium carbonate and light magnesium carbonate remain unchanged in the baked product. The method described in Finding 27 for determining the amount of carbon dioxide evolved is unsatisfactory where carbonates other than sodium bicarbonate are present in self-rising flour.

29. The reason for adding the calcium carbonate is to enrich the diet in calcium and to increase the ratio of calcium to phosphorus. The reason alleged for adding the light magnesium carbonate is that it tends to preserve in the self-rising flour the fluffiness and free flowing qualities characteristic of freshly milled flour.

30. The probable effects of diversity of enrichment of self-rising flour, and of indiscriminate enrichment of foods, are set forth in Findings 36 and 37. In the amount used in this self-rising flour, 0.176 percent, and in amounts up to 0.5 percent light magnesium carbonate causes no observable change in fluffiness, free flowing qualities, or other properties of the self-rising flour.

31. The flour used in preparing self-rising flour is ordinarily bleached prior to mixing with leavening agents and salt. Sometimes the bleaching agent containing benzoyl peroxide, described in Finding 18, is mixed with the flour along with the leavening agents and salt. Findings 18, 19, and 20 apply also to self-rising flour.

32. Flour and self-rising flour are among the principal items of food of the people of the United States. The average consumption is about six and one-half ounces per person per day. This six and one-half ounces supplies about one-fourth of the normal energy requirements of the average person.

33. Recent investigations of the diets of persons in various sections and in various income groups have shown that in many cases the food consumed does not furnish sufficient amounts of certain necessary nutritional elements to maintain health. The deficiencies are more prevalent in the case of persons with low incomes. Such persons usually supply a larger part of their energy requirements from flour and self-rising flour than the average person because of their cheapness as a source of energy.

34. Among the most serious and widespread deficiencies, in children as well as adults, are those of vitamin B_1, riboflavin, nicotinic acid, and iron. Deficiencies of these vitamins tend to occur in the same individuals.

35. A deficiency of calcium exists in certain groups of the population. A deficiency of vitamin D exists in large numbers of infants and children.

36. There have recently been placed on the market flours and self-rising flours enriched with one or more of the nutritional elements referred to above. These flours vary widely in composition. Unless a standard is promulgated which limits the kinds and amounts of enrichment, the manufacturers' selection of the various nutritive elements and combinations of elements on the basis of economic and merchandising considerations is likely to lead to a great increase in the diversity, both qualitative and quantitative, in enriched flours offered to the public. Such diversity would tend to confuse and mislead consumers as to the relative value of and need for the several nutritional elements, and would impede rather than promote honesty and fair dealing in the interest of consumers.

37. In general, indiscriminate enrichment of foods (including flour and self-rising flour) with vitamins and minerals would tend to confuse and mislead consumers by giving rise to conflicting claims regarding the beneficial effects of such substances, and would be likely to lead to the impression on the part of consumers that a single article of food so enriched would meet all nutritional needs.

38. Limited enrichment of selected staple foods, on the other hand, is readily adapted to the promotion of consumer understanding of the relative value of enriched and natural foods, utilizing such education as consumers have received regarding the nutritive value of natural foods.

39. Essential food elements, now present only in insufficient quantities in many diets, which are present in wheat in considerable quantity, are vitamins of the B complex and iron. Iron (or compounds of iron) and the following vitamins of the B complex are available and suitable for the enrichment of flour and self-rising flour, either in the form of synthetic products or secured from wheat by slight changes in the process of milling flour: vitamin B_1, riboflavin, nicotinic acid or nicotinic acid amide.

40. Vitamin D and calcium are now used singly to a limited extent in the enrichment of flour and self-rising flour. Consumer education has generally rec-

ommended dairy products as the most desirable source of calcium, and milk as the product most suitable for enrichment with vitamin D in the light of known deficiencies of this element. The addition, however, of vitamin D and calcium as optional ingredients to an enriched flour or enriched self-rising flour will serve a useful purpose for the benefit of persons who do not consume sufficient dairy products.

41. Enrichment of flour or self-rising flour with vitamin A or vitamin C would be unsatisfactory for the reason, among others, that these vitamins are likely to decompose in flour.

42. Stabilized wheat germ oil has been proposed as an optional ingredient of flour for the purpose of increasing the vitamin E content of the flour and for its flavor. The need for the enrichment of foods with vitamin E has not been established. The evidence does not establish that wheat germ oil or stabilized wheat germ oil, in the quantity proposed, has an appreciable effect on the flavor.

43. Pending experience with the use of enriched flour and enriched self-rising flour, consumer education and understanding will be facilitated by restricting the enrichment, not only with respect to the ingredients to be contained therein, but also by the fixing of minimum and maximum amounts of such ingredients. Reasonable limits for this purpose are, for each pound of flour or self-rising flour: not less than 1.66 milligrams nor more than 2.5 milligrams of vitamin B_1, not less than 1.2 milligrams nor more than 1.8 milligrams of riboflavin, not less than 6 milligrams nor more than 24 milligrams of nicotinic acid or nicotinic acid amide, not less than 6 milligrams nor more than 24 milligrams of iron (Fe), not less than 250 U. S. P. units nor more than 1,000 U. S. P. units of vitamin D, and not less than 500 milligrams nor more than 2,000 milligrams of calcium (Ca).

44. Wheat germ, in its natural form or processed to remove part of its oil, is a suitable ingredient for furnishing a part of the requirements for vitamin B_1, riboflavin, nicotinic acid, and iron, but amounts greater than 5 percent in flour or self-rising flour impair the color of the baked product and make it difficult to produce acceptable bread.

45. Iron has been added to flour in the form of harmless and assimilable salts (other harmless and assimilable forms of iron would serve as well). Various harmless and assimilable salts of calcium, including the phosphates, have been used. The use of any of the calcium phosphates results in the introduction of phosphorus in addition to that naturally present in flour, but such introduction is harmless and is thought by some persons to be desirable. Vitamin D has been added to flour as a concentrate of vitamin D in a food oil. When vitamins and iron are added to flour or self-rising flour, their bulk is so small that the use of a carrier facilitates their intimate and uniform admixture with the flour.

46. Vitamin B_1 in flour and self-rising flour is subject to some loss during baking; the degree of loss increases as the dough decreases in acidity or becomes alkaline. The danger of loss is great when consumers use soda in baking. The addition of monocalcium phosphate safeguards against such losses.

47. Flour and self-rising flour enriched with vitamins and minerals have not acquired common or usual names; accurate designations for these products are "enriched flour" and "enriched self-rising flour."

48. The reasons for enriching flour with vitamins and minerals are equally applicable to bromated flour. Bromated flour so enriched has not acquired a common or usual name; an accurate designation for this product is "enriched bromated flour."

49. The food commonly and usually known as "durum flour" is manufactured from durum wheat. Durum flour is not ordinarily used for making bread or biscuit but is used for making macaroni and noodles. The purchaser of durum flour expects that it will be suitable for these purposes.

50. Except as above stated the method of preparation of durum flour is the same as that described in Finding 3 with respect to flour. Finding 6 is applicable to durum flour.

51. The characteristics of durum wheat do not vary to an extent comparable to the variation between hard and soft wheats used for making flour, and a fixed ash limit is satisfactory for distinguishing between durum flours which will make acceptable macaroni and noodles and those which will not. A reasonable ash limit is 1.3 percent, or 1.5 percent when calculated to a moisture-free basis.

52. Findings 12, 13, 15, and 16 are applicable to durum flour.

53. A food is prepared and widely sold in certain parts of the United States consisting of a mixture of flour and monocalcium phosphate, sometimes with the addition of dicalcium phosphate.

54. The primary reason for adding the monocalcium phosphate is to have an excess of acid-reacting material in the dough when such flour is used with soda and sour milk for making biscuit. Dicalcium phosphate also increases the acid-reacting material, but it is far less effective for this purpose than monocalcium phosphate, and the primary reason for adding it is to enrich the diet in calcium. The probable effects of diversity of enrichment of flour, and of indiscriminate enrichment of foods, are set forth in Findings 36 and 37.

55. Small amounts of monocalcium phosphate will not accomplish the purpose of such addition; too much is likely to impart an undesirable acid taste to products made from such flour. Reasonable limits for monocalcium phosphate are a minimum of 0.25 percent and a maximum of 0.75 percent of the weight of the phosphated flour.

56. Flour to which monocalcium phosphate has been added is commonly labeled "flour—calcium phosphate added." The names "phosphated flour", "phosphated white flour", and "phosphated wheat flour" are commonly and usually applied to differentiate this product from flour.

57. The flour used in preparing phosphated flour is ordinarily bleached prior to mixing with the monocalcium phosphate. Sometimes the bleaching agent containing benzoyl peroxide, described in Finding 18, is mixed with the flour along with the monocalcium phosphate. Findings 18, 19, and 20 apply also to phosphated flour.

58. The three foods commonly and usually known as (1) "whole wheat flour", "graham flour", or "entire wheat flour"; (2) "cracked wheat"; (3) "crushed wheat" or "coarse ground wheat", are all made by grinding, cracking, or crushing wheat other than durum wheat or red durum wheat. Consumers generally expect these foods to contain the constituents of the whole wheat berry, other than moisture, in their natural proportions, although in some cases some of the finer material (largely endosperm and germ) or the coarser material (largely bran) is removed, the product often being labeled to show such removal.

59. In the manufacture of these foods the wheat is first cleaned, and is sometimes tempered. Each of these foods contains some moisture. Excessive moisture, however, impairs the keeping qualities and unreasonably increases the weight of these foods. A reasonable limit for moisture, which is not exceeded in good manufacturing practice, is 15 percent.

60. Food products made from the entire wheat berry vary widely in the size of particles. They also vary in the character and shape of the particles, depending on whether the products are made by a grinding or crushing process or by a cracking or cutting process. A ground or crushed product, even though coarsely ground, contains a substantial amount of fine particles. A cracked or cut product, although it may contain some fine particles, consists chiefly of angular fragments of substantially uniform size.

61. The most finely ground of these products is commonly and usually known as "whole wheat flour", "graham flour", or "entire wheat flour." This product is commonly used for making whole wheat bread, and the purchaser expects it to be suitable for that purpose.

62. In order to make whole wheat bread, whole wheat flour must be of a certain degree of fineness. Reasonable limits for the degree of fineness for this purpose are that at least 90 percent of the whole wheat flour pass through a No. 8 sieve and at least 50 percent of it pass through a No. 20 sieve. Most, though not all, products now sold under the name "whole wheat flour" comply with such limitations.

63. Malted wheat is sometimes mixed with wheat used for making whole wheat flour, or malted wheat flour or malted barley flour is sometimes added to the

whole wheat flour, in small amounts so as to compensate for natural deficiencies of enzymes necessary for breadmaking. A reasonable maximum limit for malted wheat flour so used is 0.5 percent, and for malted barley flour so used is 0.25 percent.

64. In the process of milling whole wheat flour, the particles of endosperm sometimes are separated from the ground particles of bran coat and germ of the wheat, and subsequently recombined. In such cases the particles of endosperm are sometimes treated with nitrogen trichloride, chlorine, or a mixture of nitrozyl chloride and chlorine to obtain bleaching and artificial aging effects. Only enough of these agents is used to bring about these effects. Whole wheat flour so treated is labeled "bleached."

65. Products coarser than whole wheat flour, while not suitable for use as the primary ingredient in making bread, are used with flour or whole wheat flour to make special kinds of bread, often designated "cracked wheat bread" and "crushed wheat bread." They are also used to some extent as breakfast foods or an ingredient of certain breakfast foods. In order to be suitable for these purposes the products must be of a certain degree of fineness.

66. Products made by the cracking or cutting process have a different appearance and different texture from those made by the grinding or crushing process. But considerable confusion now exists in regard to nomenclature of these products, with the result that purchasers of them or of bread containing them are likely to have difficulty in knowing what they are purchasing. Thus, the name "cracked wheat", while it is generally applied to products made by the cracking or cutting process, is also applied occasionally to coarsely ground food products of wheat. The name "cracked wheat" is also applied to animal feed which differs in several respects from products sold for human food, being made up mostly of broken or cracked wheat berries. The fineness of these food products is important in determining their suitability for the purposes stated in Finding 65, and the degree of fineness and of uniformity in the size of particles affords a reasonable method (in addition to the difference in method of manufacture and in shape and character of particles) of differentiating between them.

67. The coarse product made by the grinding process or crushing process is usually sold under the name "crushed wheat", and sometimes as "rolled wheat", or "curled wheat", and occasionally as "cracked wheat." The term "coarse ground wheat" has also been proposed. Reasonable limits on the sizes of the particles of this product, which is suitable for the purposes stated in Finding 65, are that at least 40 percent will pass through a No. 8 sieve, but less than 50 percent will pass through a No. 20 sieve.

68. The coarse product made by the cracking or cutting process is commonly known as "cracked wheat." Reasonable limits on the size of the particles of this product, which is suitable for the purposes stated in Finding 65, are that at least 90 percent will pass through a No. 8 sieve and not more than 20 percent will pass through a No. 20 sieve.

69. A suitable procedure for determining the percentage of these foods which will be retained on or pass through No. 8 and No. 20 sieves is as follows:

Use No. 8 and No. 20 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Fit a No. 8 sieve into a No. 20 sieve. Attach bottom pan to the No. 20 sieve. Pour 100 grams of the sample into the No. 8 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 8 sieve and the material which passes through the No. 20 sieve.

70. A satisfactory and reliable method for the determination of moisture in whole wheat flour is that referred to in Finding 16. This method is well-known and widely used in examining whole wheat flour for its moisture content.

71. A satisfactory and reliable method for the determination of moisture in cracked wheat and crushed wheat is that prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 4th Edition, 1935, page 335, under the caption "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official." The same method has recently been republished in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th edition, 1940, page 353, under "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official." This method is well-known and widely used in examining crushed wheat and cracked wheat for their moisture content.

72. The reasons for adding potassium bromate to flour, and the amounts in which it is added, stated in Findings 21 and 22, are equally applicable to whole wheat flour. Whole wheat flour to which potassium bromate is added is labeled "bromated"; an accurate designation for the product is "bromated whole wheat flour."

73. The food known as "whole durum wheat flour" is prepared from durum wheat by the same process employed in making whole wheat flour (Findings 59, 62, 63, 64, and 65), and is used in making certain kinds of bread. Consumers generally expect whole durum wheat flour to contain the constituents of the whole durum wheat berry, other than moisture, in their natural proportions. A reasonable moisture limit and reasonable granulation limits for whole durum wheat flour are the same as for whole wheat flour.

74. The food commonly and usually known as "farina" is manufactured from wheat, either hard or soft, other than durum wheat and red durum wheat.

75. In making farina the wheat is first cleaned. It is usually tempered. It is then ground, bran coat and germ are separated from the endosperm, and the flour is removed by bolting. Farina consists essentially of endosperm, but the particles of farina are larger than those of flour. The size of the particles of farina has become well established through usage, and is a distinguishing characteristic of the product. The size is such that farina will pass through a No. 20 sieve but that only a small amount will pass through a No. 100 sieve. The material passing through the No. 100 sieve comes mostly from abrasion of particles of farina during handling after it is manufactured. A reasonable limit for this fine material is 3.0 percent.

76. A satisfactory method for testing farina for size of particles is as follows:

Use No. 20 and No. 100 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Fit a No. 20 sieve into a No. 100 sieve. Attach bottom pan to the No. 100 sieve. Four 100 grams of the sample into the No. 20 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 20 sieve and the material which passes through the No. 100 sieve.

77. Consumers generally expect farina to be almost entirely free from bran coat and germ. In this respect it corresponds substantially to "patent flour." The extent of removal can be measured by the percent of ash in the farina (see Finding 6). A generally recognized and reasonable maximum limit for ash is about 0.5 percent, or not more than 0.6 percent on a moisture-free basis.

78. All farina contains some moisture. Excessive moisture impairs the keeping qualities of farina and unnecessarily increases its weight. A reasonable limit for moisture, which is not exceeded in good milling practice, is 15 percent.

79. A satisfactory and reliable method for the determination of the ash content of farina is that referred to in Finding 15. A satisfactory and reliable method for the determination of the moisture content of farina is that referred to in Finding 16. These methods are well-known and widely used.

80. The removal of bran coat and germ from endosperm in the manufacture of farina removes those parts of the wheat which are richest in vitamins and minerals.

81. Farina is used as a breakfast food and as an ingredient of macaroni products. It is not as widely consumed as flour, but it is extensively used as a cereal food for children and in many cases is the only cereal food used during a period of their growth.

82. Certain manufacturers are now selling farina to which have been added vitamins and minerals. Ingredients now being added for this purpase are vitamin D contained in dried irradiated yeast (other sources of vitamin D would serve equally well), and portions of the vitamin B complex and minerals contained in freshly milled wheat germ or wheat germ from which part of the oil has been removed. Iron and calcium have also been added in the form of assimilable salts, which are available and suitable for the purpose. In addition to wheat germ other sources of members of the vitamin B complex are available and suitable.

83. In general, the interest of consumers is affected by the enrichment of farina with vitamins and minerals in the same way as has been outlined in connection with the enrichment of flour in Findings 34 to 43, inclusive.

84. Because of the small quantities in which farina is ordinarily consumed, and because of its special use in diets of some children, there is occasion for the enrichment of farina with quantities of vitamins and minerals substantially in excess of the reasonable maxima for flour. Findings 44 and 45 are applicable to farina, except that farina is not used for making bread and a reasonable limit for the wheat germ is 8 percent.

85. The time necessary for cooking enriched farina can be shortened by the addition of from one-half to one percent of disodium phosphate.

86. Farina enriched with vitamins and minerals has not acquired a common or usual name; an accurate designation for the product is "enriched farina."

87. The food commonly and usually known as semolina is manufactured from durum wheat.

88. In making semolina the wheat is first cleaned. It is usually tempered. It is then ground, the bran coat and germ are separated from the endosperm, and durum flour is removed by bolting. Semolina consists essentially of the endosperm, but the particles of semolina are larger than those of durum flour. The size of the particles of semolina has become well established through usage, and is a distinguishing characteristic of the product. The size is such that semolina will pass through a No. 20 sieve but that only a small amount will pass through a No. 100 sieve. The material passing through the No. 100 sieve comes mostly from abrasion of particles of semolina during handling after it is manufactured. A reasonable limit for this fine material is 3.0 percent.

89. A satisfactory method for testing semolina for size of particles is the method described in Finding 76.

90. Semolina is used in the manufacture of macaroni and noodles, and sometimes as a breakfast food. Consumers generally expect semolina to be almost entirely free from bran coat and germ. The extent of the removal can be measured by the percent of ash in the semolina (see Finding 6). A generally recognized and reasonable limit for ash is about 0.8 percent or not more than 0.92 percent on a moisture-free basis.

91. All semolina contains some moisture. Excessive moisture impairs the keeping qualities of semolina and unnecessarily increases its weight. A reasonable limit for moisture, which is not exceeded in good manufacturing practice, is 15 percent.

92. A satisfactory and reliable method for the determination of the ash content of semolina is that referred to in Finding 15. A satisfactory and reliable method for determination of the moisture content of semolina is that referred to in Finding 16. These methods are well-known and widely used.

On the basis of the foregoing findings of fact it is concluded that each of the following regulations fixing and establishing a definition and standard of identity for a food will promote honesty and fair dealing in the interest of consumers:

Regulations

§ 15.000 *Flour, white flour, wheat flour, plain flour—identity: label statement of optional ingredients.* (a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat other than durum wheat and red durum wheat; to compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.25 percent. One of the cloths through which the flour is bolted has openings not larger than those of woven wire cloth designated "149 micron (No. 100)" in table I of "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. The flour is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than the sum of one-twentieth of the percent of protein therein, calculated to a moisture-free basis, and 0.35. Its moisture content is not more than 15 percent. Unless such addition conceals damage or inferiority of the flour or makes it appear better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching or, in case such ingredient has an artificial aging effect, in a quantity not more than sufficient for bleaching and such artificial aging effect:

(1) oxides of nitrogen,
(2) chlorine,
(3) nitrosyl chloride,
(4) nitrogen trichloride,
(5) one part by weight of benzoyl peroxide mixed with not more than six parts by weight of a mixture of either potassium alum or calcium sulfate and magnesium carbonate.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.

(c) For the purposes of this section:

(1) Ash is determined by the method prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 212, under "Method I—Official." Ash is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of ash, and multiplying the quotient by 100.

(2) Protein is 5.7 times the nitrogen as determined by the method prescribed in such book on page 26, under "Kjeldahl-Gunning-Arnold Method — Official." Protein is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of protein, and multiplying the quotient by 100.

(3) Moisture is determined by the method prescribed in such book on page 211, under "Vacuum Oven Method—Official."*

*§§ 15.000 to 15.150, inclusive, issued under the authority contained in 52 Stat. 1046, 53 Stat. 561ff; 21 U.S.C., Sup., 341, 5 U.S.C., Sup. 133–133i and Reorganization Plans Nos. I and IV, 4 F.R. 2727, 5 F.R. 2421.

§ 15.010 *Enriched flour—identity; label statement of optional ingredients.* Enriched flour conforms to the definition and standard of identity, and is subject to the requirements for label statement

of optional ingredients, prescribed for flour by § 15.000, except that:

(a) it contains in each pound not less than 1.66 milligrams and not more than 2.5 milligrams of vitamin B_1, not less than 1.2 milligrams and not more than 1.8 milligrams of riboflavin, not less than 6 milligrams and not more than 24 milligrams of nicotinic acid or nicotinic acid amide, not less than 6 milligrams and not more than 24 milligrams of iron (Fe);

(b) vitamin D may be added in such quantity that each pound of the finished enriched flour contains not less than 250 U. S. P. units and not more than 1,000 U. S. P. units of vitamin D;

(c) calcium may be added in such quantity that each pound of the finished enriched flour contains not less than 500 milligrams and not more than 2,000 milligrams of calcium (Ca), except that enriched flour may be acidified with monocalcium phosphate irrespective of the minimum limit for calcium (Ca) herein prescribed;

(d) it may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ; and

(e) in determining whether the ash content complies with the requirements of this section allowance is made for ash resulting from any added iron or salts of iron or calcium.

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in paragraphs (a) and (b) may be added in a harmless carrier which does not impair the enriched flour; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the flour.*

§ 15.020 *Bromated flour—identity; label statement of optional ingredients.* Bromated flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for flour by § 15.000, except that:

(a) potassium bromate is added in a quantity not exceeding 75 parts to each million parts of the finished bromated flour; and

(b) its protein content, calculated to a moisture-free basis, is not less than 15 percent (determination and calculations of protein are made as prescribed in § 15.000 (c) (2)).*

§ 15.030 *Enriched bromated flour—identity; label statement of optional ingredients.* Enriched bromated flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for enriched flour by § 15.010, except that:

(a) potassium bromate is added in a quantity not exceeding 75 parts to each million parts of the finished enriched bromated flour; and

(b) its protein content, calculated to a moisture-free basis, is not less than 15 percent (determination and calculations of protein are made as prescribed in § 15.000 (c) (2)).*

§ 15.040 *Durum flour—identity.* (a) Durum flour is the food prepared by grinding and bolting cleaned durum wheat. One of the cloths through which such flour is bolted has openings not larger than those of woven wire cloth designated "149 micron (No. 100)" in table I of "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 1.5 percent. Its moisture content is not more than 15 percent.

(b) For the purposes of this section, ash and moisture are determined by the methods therefor referred to in § 15.000 (c).*

§ 15.050 *Self-rising flour, self-rising white flour, self-rising wheat flour—identity; label statement of optional ingredients.* (a) Self-rising flour, self-rising white flour, self-rising wheat flour, is an intimate mixture of flour, sodium bicarbonate, and the acid-reacting substance monocalcium phosphate or sodium acid pyrophosphate or both. It is seasoned with salt. When it is tested by the method prescribed in subsection (c), not less than 0.5 percent of carbon dioxide is evolved. The acid-reacting substance is added in sufficient quantity to neutralize the sodium bicarbonate. The combined weight of such acid-reacting substance and sodium bicarbonate is not more than 4.5 parts to each 100 parts of flour used. Subject to the conditions and restrictions prescribed by § 15.000 (a), the bleaching ingredients specified in such section may be added as optional ingredients. If the flour used in making the self-rising flour is bleached, the optional bleaching ingredient used therein (see § 15.000 (a)) is also an optional ingredient of the self-rising flour.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.

(c) The method referred to in paragraph (a) is the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, beginning on page 186 under "Gasometric Method with Chittick's Apparatus—Official", except that the following procedure is substituted for the procedure specified therein under "6—Determination":

Weigh 17 grams of the official sample into flask A, add 15–20 glass beads (4–6 mm. diameter), and connect this flask with the apparatus (fig. 22). Open stopcock C and by means of the leveling bulb E bring the displacement solution to the 25 cc. graduation above the zero mark. (This 25 cc. is a partial allowance for the volume of acid to be used in the decomposition.) Allow the apparatus to stand 1–2 minutes to insure that the temperature and pressure within the apparatus are the same as those of the room. Close the stopcock, lower the leveling bulb somewhat to reduce the pressure within the apparatus, and slowly run into the decomposition flask from burette F 45 cc. of sulfuric acid (1+5). To prevent the liberated carbon dioxide from escaping through the acid burette into the air, keep the displacement solution in the leveling bulb at all times during the decomposition at a lower level than that in the gas-measuring tube. Rotate and then vigorously agitate the decomposition flask for three minutes to mix the contents intimately. Allow to stand for ten minutes to bring to equilibrium. Equalize the pressure in the measuring tube by means of the leveling bulb and read the volume of gas from the zero point on the tube. Deduct 20 cc. from this reading (this 20 cc. together with previous allowance of 25 cc. compensates for the 45 cc. acid used in the decomposition). Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in table 24—Chapter XLIII for the temperature and pressure observed. Divide the corrected reading by 100 to obtain the apparent percent by weight of carbon dioxide in the official sample.

Correct the apparent percent of carbon dioxide to compensate for varying atmospheric conditions by immediately assaying a synthetic sample by the same method in the same apparatus.

Prepare the synthetic sample with 16.2 grams of flour, 0.30 gram of monocalcium phosphate, 0.30 gram of salt, and a sufficient quantity of sodium bicarbonate U. S. P. (dried over sulfuric acid) to yield the amount of carbon dioxide recovered in assay of official sample. Determine this quantity by multiplying weight of carbon dioxide recovered in assay of official sample by 1.91.

Divide the weight of carbon dioxide recovered from synthetic sample by weight of carbon dioxide contained in sodium bicarbonate used.

Divide the quotient into the apparent percent of carbon dioxide in official sample to obtain percent of carbon dioxide evolved from the official sample.*

§ 15.060 *Enriched self-rising flour—identity; label statement of optional ingredients.* Enriched self-rising flour conforms to the definition and standard

of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for self-rising flour by § 15.050, except that:

(a) it contains in each pound not less than 1.66 milligrams and not more than 2.5 milligrams of vitamin B_1, not less than 1.2 milligrams and not more than 1.8 milligrams of riboflavin, not less than 6 milligrams and not more than 24 milligrams of nicotinic acid or nicotinic acid amide, not less than 6 milligrams and not more than 24 milligrams of iron (Fe);

(b) vitamin D may be added in such quantity that each pound of the finished enriched self-rising flour contains not less than 250 U. S. P units and not more than 1,000 U S. P. units of vitamin D;

(c) calcium may be added in such quantity that each pound of the finished enriched self-rising flour contains not less than 500 milligrams and not more than 2,000 milligrams of calcium (Ca);

(d) it may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ;

(e) when calcium is added as dicalcium phosphate, such dicalcium phosphate is also considered to be an acid-reacting substance; and

(f) when calcium is added as carbonate, the method set forth in § 15.040 (c) does not apply as a test for carbon dioxide evolved; but in such case the quantity of carbon dioxide evolved under ordinary conditions of use of the enriched self-rising flour is not less than 0.5 percent of the weight thereof.

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in paragraphs (a) and (b) may be added in a harmless carrier which does not impair the enriched self-rising flour; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the flour.*

§ 15.070 *Phosphated flour, phosphated white flour, phosphated wheat flour—identity; label statement of optional ingredients.* Phosphated flour, phosphated white flour, phosphated wheat flour, conforms to the definition and standard of identity, and is subject to the requirements for label declaration of optional ingredients, prescribed for flour by § 15.000, except that:

(a) monocalcium phosphate is added in a quantity not less than 0.25 percent and not more than 0.75 percent of the weight of the finished prosphated flour; and

(b) in determining whether the ash content complies with the requirements of this regulation allowance is made for the added monocalcium phosphate.*

§ 15.080 *Whole wheat flour, graham flour, entire wheat flour—identity; label statement of optional ingredients.* (a) Whole wheat flour, graham flour, entire wheat flour, is the food prepared by so grinding cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in subsection (c) (2), not less than 90 percent passes through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted wheat flour so used is not more than 0.5 percent, and the quantity of malted barley flour so used is not more than 0.25 percent. The moisture content of whole wheat flour is not more than 15 percent. Unless such addition conceals damage or inferiority of the whole wheat flour or makes it appear better or of greater value than it is, the optional bleaching ingredient nitrogen trichloride, chlorine, or a mixture of nitrosyl chloride and chlorine, may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.

(c) For the purpose of this section:

(1) Moisture is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 211, under "Vacuum Oven Method—Official."

(2) The method referred to in paragraph (a) is as follows: Use No. 8 and No. 20 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Fit a No. 8 sieve into a No. 20 sieve. Attach bottom pan to the No. 20 sieve. Pour 100 grams of the sample into the No. 8 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 8 sieve and the material which passes through the No. 20 sieve.*

§ 15.090 *Bromated whole wheat flour—identity; label statement of optional ingredients.* Bromated whole wheat flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for whole wheat flour by § 15.080, except that potassium bromate is added in a quantity not exceeding 75 parts to each million parts of finished bromated whole wheat flour.*

§ 15.100 *Whole durum wheat flour—identity: label statement of optional ingredients.* Whole durum wheat flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for whole wheat flour by § 15.080, except that cleaned durum wheat, instead of cleaned wheat other than durum wheat and red durum wheat, is used in its preparation.*

§ 15.110 *Crushed wheat, coarse ground wheat—identity.* Crushed wheat, coarse ground wheat, is the food prepared by so crushing cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in § 15.080 (c) (2), 40 percent or more passes through a No. 8 sieve and less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Crushed wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 353, under "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official." *

§ 15.120 *Cracked wheat — identity.* Cracked wheat is the food prepared by so cracking or cutting into angular fragments cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in § 15.080 (c) (2), not less than 90 percent passes through a No. 8 sieve and not more than 20 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Cracked wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 353, under "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official." *

§ 15.130 *Farina—identity.* (a) Farina is the food prepared by grinding and bolting cleaned wheat, other than durum wheat and red durum wheat, to such fineness that, when tested by the method prescribed in paragraph (b) (2), it passes through a No. 20 sieve, but not more than 3 percent passes through a No. 100 sieve.

It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 0.6 percent. Its moisture content is not more than 15 percent.

(b) For the purposes of this section:

(1) Ash and moisture are determined by the methods therefor referred to in § 15.000 (c).

(2) The method referred to in paragraph (a) is as follows: Use No. 20 and No. 100 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Fit a No. 20 sieve into a No. 100 sieve. Attach bottom pan to the No. 100 sieve. Pour 100 grams of the sample into the No. 20 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 20 sieve and the material which passes through the No. 100 sieve.*

§ 15.140 *Enriched farina — identity; label statement of optional ingredients.* (a) Enriched farina conforms to the definition and standard of identity prescribed for farina by § 15.130, except that:

(1) it contains in each pound not less than 1.66 milligrams of vitamin B_1, not less than 1.2 milligrams of riboflavin, not less than 6 milligrams of nicotinic acid or nicotinic acid amide, and not less than 6 milligrams of iron (Fe);

(2) vitamin D may be added in such quantity that each pound of the finished enriched farina contains not less than 250 U. S. P. units of the optional ingredient vitamin D;

(3) Calcium may be added in such quantity that each pound of the finished enriched farina contains not less than 500 milligrams of the optional ingredient calcium (Ca);

(4) it may contain not more than 8 percent by weight of the optional ingredient wheat germ or partly defatted wheat germ;

(5) it may contain not less than 0.5 percent and not more than 1 percent by weight of the optional ingredient disodium phosphate; and

(6) In determining whether the ash content complies with the requirements of this regulation allowance is made for ash resulting from any added iron or salts of iron or calcium, or from any added disodium phosphate, or from any added wheat germ or partly defatted wheat germ. Iron and calcium may be added only in forms which are harmless and assimilable. Dried irradiated yeast may be used as a source of vitamin D. The substances referred to in subparagraphs (1) and (2) may be added in a harmless carrier which does not impair the enriched farina; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the farina.

(b) When the optional ingredient disodium phosphate is used, the label shall bear the statement "Disodium phosphate added for quick cooking." Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such statement shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if such statement is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.*

§ 15.150 *Semolina—identity.* (a) Semolina is the food prepared by grinding and bolting cleaned durum wheat to such fineness that, when tested by the method prescribed in § 15.130 (b) (2), it passes through a No. 20 sieve, but not more than 3 percent passes through a No. 100 sieve. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 0.92 percent. Its moisture content is not more than 15 percent.

(b) For the purpose of this section:

Ash and moisture are determined by the methods therefor referred to in § 15.000 (c).*

This order shall become effective on January 1, 1942.

Washington, D. C., May 26, 1941.

[SEAL] W. B. MILLER,
Acting Administrator.

[F. R. Doc. 41-3761; Filed, May 26, 1941; 11:57 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 5047]

PART 80—ESTATE TAX UNDER THE REVENUE ACTS OF 1926 AND 1932, AS AMENDED

OPTIONAL VALUATION OF GROSS ESTATE

Article 11, and article 13 (as amended by Treasury Decision 5042,[1] approved March 1, 1941) of Regulations 80,[2] 1937 Edition (§§ 80.11 and 80.13, Title 26, Code of Federal Regulations), and those articles as made applicable to the Internal Revenue Code (53 Stat., Part 1) by Treasury Decision 4885,[3] approved February 11, 1939 (Chapter I, note of such Title 26), are amended as herein indicated.

In lieu of the 6th, 7th, 8th, 9th, 10th, and 11th paragraphs of article 11, the following is substituted:

§ 80.11 *Optional valuation date.*

* * * * *

In valuing the gross estate under the optional valuation method, all of the property interests existing at the date of death which are a part of the gross estate as determined under the subdivisions of section 302, as amended, constitute the property to be valued as of one year after the date of the decedent's death, or as of the date of the decedent's death, or as of some intermediate date. Such property is hereinafter referred to as "included property". "Included property" as of the date of the decedent's death remains "included property" for the purpose of valuing the gross estate under the optional valuation method even though it is changed in form during the optional valuation period by being actually received, or disposed of, in whole or in part, by the estate. However, property earned or accrued (whether received or not) after the decedent's death and during the optional valuation period with respect to any property interests existing at the date of death, which does not represent a form of "included property" itself or the receipt thereof, is to be excluded in valuing the gross estate at the subsequent valuation date and is hereinafter referred to as "excluded property". Among the items of "included property" to be valued in accordance with these principles are the following:

(1) *Interest-bearing obligations.* Interest-bearing obligations, such as bonds and notes, may, at the date of death, comprise two elements of "included property", the principal of the obligation itself and interest accrued to the date of death, and each is to be separately valued as of the applicable valuation date. The bond or note is to be valued as of the applicable valuation date without regard to accrued interest. Interest accrued after the date of death and prior to the subsequent valuation date constitutes "excluded property." However, any part payment of principal made between the date of death and the subsequent valuation date, or any advance payment of interest for a period after the subsequent valuation date made during the optional valuation period which has the effect of reducing the value of the principal obligation as of the subsequent valuation date, will be included in the gross estate, and valued as of the date of such payment.

(2) *Leased property.* The principles applicable with respect to interest-bearing obligations also apply to leased realty or personalty included in the gross estate with the obligation to pay rent reserved. Both the realty or personalty itself and the rents accrued to the date of death

[1] 6 F.R. 1288.
[2] 2 F.R. 2324.
[3] 4 F.R. 879.

constitute "included property", and each is to be separately valued as of the applicable valuation date. Any rent accrued after the date of death and prior to the subsequent valuation date is "excluded property". The principle applicable with respect to interest paid in advance also applies to advance payments of rent.

(3) *Noninterest-bearing obligations.* In the case of noninterest-bearing obligations sold at a discount, such as Treasury bills, the principal obligation and the discount amortized to the date of death are property interests existing at the date of death and constitute "included property". The obligation itself is to be valued thereafter at the subsequent valuation date without regard to any further increase in value due to amortized discount. The additional discount amortized after death and during the optional valuation period is the equivalent of interest accruing during that period and is, therefore, not to be included in the gross estate under the optional valuation method.

(4) *Stock of a corporation.* Shares of stock in a corporation and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at the date of death constitute "included property" of the estate. Ordinary dividends out of earnings and profits, whether in cash or in shares of the corporation or in other property, declared to stockholders of record after the date of the decedent's death are "excluded property" and are not to be valued under the optional valuation method. If, however, dividends are declared to stockholders of record after the date of the decedent's death with the effect that the shares of stock at the subsequent valuation date do not reasonably represent the same "included property" of the gross estate as existed at the date of the decedent's death, such dividends are "included property" except to the extent that such dividends are out of earnings of the corporation after the date of the decedent's death. For example, if a corporation makes a distribution in complete or partial liquidation to stockholders of record during the optional valuation period, the amount of such distribution received on stock included in the gross estate is itself "included property", except to the extent that the distribution was out of earnings and profits since the date of the decedent's death. Another example is where a corporation, in which the decedent owned 50 per cent of the shares and which possessed at the date of the decedent's death accumulated earnings and profits equal to its paid-in capital, distributed all of its accumulated earnings and profits as a cash dividend to shareholders of record during the optional valuation period. In such a case the amount of the dividends received on stock includible in the gross estate will be included in the gross estate under the optional valuation method.

The operation of this article may be further illustrated by the following example in which the death of the decedent will be taken to have occurred on January 1, 1940:

Description	Subsequent valuation date	Value under option	Value at date of death
Bond, par value $1,000, bearing interest at 4% payable quarterly on February 1, May 1, August 1 and November 1. Bond distributed to legatee on March 1, 1940	3-1-40	$1,000.00	$1,000.00
Interest coupon of $10 attached to bond and not cashed at date of death although due and payable November 1, 1939. Cashed by executor on February 1, 1940	2-1-40	10.00	10.00
Interest accrued from November 1, 1939, to January 1, 1940	2-1-40	6.67	6.67
Real estate. Not disposed of within year following death. Rent of $300 due at the end of each quarter, February 1, May 1, August 1, and November 1	1-1-41	11,000.00	12,000.00
Rent due for quarter ending November 1, 1939, but not collected until February 1, 1940	2-1-40	300.00	300.00
Rent accrued for November and December, 1939	2-1-40	200.00	200.00
Common stock, X Corporation, 500 shares, not disposed of within year following decedent's death	1-1-41	47,500.00	50,000.00
Dividend of $2 per share declared December 10, 1939, payable on January 10, 1940, to holders of record on December 30, 1939	1-10-40	1,000.00	1,000.00

In lieu of the second sentence of the last paragraph of article 11, the following is substituted:

Interest and rents accrued at the date of the decedent's death and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at such date shall be separately shown.

In lieu of the 6th, 7th, and 8th paragraphs of article 13, the following is substituted:

§ 80.13 *Property of deceased at time of death.*

* * * * *

Interest and rents accrued at the date of the decedent's death and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at such date constitute part of the gross estate.

(This Treasury decision is issued under the authority contained in the following sections of law: Sections 811, 937, and 3791 of the Internal Revenue Code (53 Stat. 120, 143 and 467, 26 U.S.C., Sup. V, 811, 937, 3791); section 302 of the Revenue Act of 1926 (44 Stat. 70, 26 U.S.C. 411) as amended by section 202 of the Revenue Act of 1935 (49 Stat. 1022, 26 U.S.C., Sup. V, 811); section 1101 of the Revenue Act of 1926 (44 Stat. 111, 26 U.S.C. 1691 (a) (1)); section 403 of the Revenue Act of 1932 (47 Stat. 245, 26 U.S.C. 537); and section 1108 (a) of the Revenue Act of 1926, as amended by section 605 of the Revenue Act of 1928 and by section 506 of the Revenue Act of 1934 (44 Stat. 114, 45 Stat. 874, 48 Stat. 757, 26 U.S.C. 1691 (b)).)

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: May 22, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-3724; Filed, May 24, 1941; 12:17 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

CHAPTER I—MONETARY OFFICES

PART 130—REGULATIONS RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, AND THE EXPORT OR WITHDRAWAL OF COIN, BULLION, AND CURRENCY; AND TO REPORTS OF FOREIGN PROPERTY INTERESTS IN THE UNITED STATES

General Ruling No. 4 is amended to read as follows: [1]

Except as specifically provided herein or otherwise, all definitions appearing in Executive Order No. 6560 of January 15, 1934, as amended by Executive Order No. 8389 [2] of April 10, 1940, as amended, and the Regulations issued thereunder,[3] shall apply to the terms employed in all rulings, licenses, instructions, etc., and, in addition, the following definitions and rules of interpretation are prescribed:

(1) The term "Order" shall mean Executive Order No. 8389, as amended.

(2) The term "license" shall mean a license issued under the Order.

(3) The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

(4) The term "blocked country" shall mean any foreign country designated in the Order.

(5) The term "Netherlands East Indies" shall mean the following: Java and Madura, Sumatra, Riouw-Lingga archipelago, Banka, Billiton, Celebes, Borneo (West, South and East Divisions), Timor archipelago, Bali and Lombok, Lesser Sunda Islands and Dutch New Guinea.

(6) The term "Netherlands West Indies" shall mean the following: Dutch Guiana, Dutch St. Martin, Curacao, Bonaire, Aruba, St. Eustatius and Saba.

(7) Any person licensed as a "generally licensed national" shall, while so licensed, be regarded as a person within the United States who is not a national of any blocked country: *Provided, however,* that the licensing of any person as

[1] This ruling applies to the regulations appearing under 31 CFR, Part 130.
[2] 5 F.R. 1400.
[3] 5 F.R. 1401.

a "generally licensed national" shall not be deemed to suspend in any way the requirements of the Order and Regulations relating to reports, and the production of books, documents, records, etc. (see sections 10 and 14 of the Order and § 130.4 of the Regulations).

(8) The term "blocked account" shall mean an account in which any blocked country or national thereof has an interest, with respect to which account payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to a license authorizing such action. The term "blocked account" shall not be deemed to include free dollar accounts of the type referred to in General License No. 32,[4] as amended, or the accounts of generally licensed nationals.

(9) The term "banking institution" shall have the meaning prescribed in Section 11D of the Order.

(10) The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of any blocked country: any bank or trust company incorporated under the banking laws of the United States or of any state, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any state, territory or district of the United States. The Treasury Department may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any license, ruling, or instruction.

(11) The term "national securities exchange" shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885; 15 U.S.C., sec. 78f).

(12) Reference to any general license or general ruling which has been amended shall be deemed to refer to such license or ruling as amended.

(13) Any person who by virtue of any definition in the Order is a national of more than one blocked country shall be deemed to be a national of each of such blocked countries.

(14) In any case in which a person is a national of two or more blocked countries, a license with respect to nationals of one of such blocked countries shall not be deemed to include such person unless a license of equal or greater scope is outstanding with respect to nationals of each other blocked country of which such person is a national.

(15) The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to, particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice thereof, or constructive notice if in any case notice is filed pursuant to the provisions of the Federal Register Act (49 Stat. 500, as amended by 50 Stat. 304; 44 U.S.C., Sup. V, sec. 301 *et seq*).

(16) No license shall be deemed to authorize any transaction prohibited by reason of the provisions of any law, proclamation, order or regulation, other than the Order and Regulations.

D. W. BELL,
Acting Secretary of the Treasury.

MAY 24, 1941.

[F. R. Doc. 41-3723; Filed, May 24, 1941; 12:17 p. m.]

[4] 6 F.R. 748.

TITLE 32—NATIONAL DEFENSE

CHAPTER VII—SELECTIVE SERVICE SYSTEM

[No. 2]

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940, approved September 16, 1940, and the authority vested in me by the rules and regulations of the President prescribed thereunder, and more particularly the provisions of Paragraph 163 and Appendix A to Volume One of the Selective Service Regulations, I hereby prescribe the following changes in DSS forms:

Revision of DSS Form 281 effective June 1, 1941. Upon receipt of DSS Form 281 (Revised 6-1-41), all copies of the original DSS Form 281 will be destroyed and its use discontinued.

The foregoing revisions, additions, and discontinuances shall, effective June 1, 1941, become a part of Appendix A of Volume One of the Selective Service Regulations.

LEWIS B. HERSHEY,
Deputy Director.

MAY 22, 1941.

[F. R. Doc. 41-3708; Filed, May 23, 1941; 3:09 p. m.]

[No. 3]

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940, approved September 16, 1940, and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Paragraph 163 and Appendix A to Volume One of the Selective Service Regulations, I hereby prescribe the following changes in DSS forms:

1. Addition of a new form designated as DSS Form 33, effective May 19, 1941.

2. Addition of a new form designated as DSS Form 48, effective May 19, 1941.

The foregoing additions shall, effective May 19, 1941, become a part of Appendix A to Volume One, Selective Service Regulations.

LEWIS B. HERSHEY,
Deputy Director.

MAY 23, 1941.

[F. R. Doc. 41-3709; Filed, May 23, 1941; 3:09 p. m.]

[No. 4]

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940, approved September 16, 1940, and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Paragraph 163 and Appendix A to Volume One of the Selective Service Regulations, I hereby prescribe the following changes in DSS forms:

1. Revision of DSS Form 140, effective April 21, 1941. Upon the receipt of DSS Form 140 (Revised 4-21-41) all copies of the original DSS Form 140 will be destroyed and its use discontinued.

The foregoing revision and discontinuance shall, effective April 21, 1941, become a part of Appendix A to Volume One, Selective Service Regulations.

LEWIS B. HERSHEY,
Deputy Director.

MAY 23, 1941.

[F. R. Doc. 41-3710; Filed, May 23, 1941; 3:09 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 204—DANGER ZONE REGULATIONS[1]

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), the following regulations are hereby prescribed to govern the use and navigation of the waters of Tomales Bay, California, comprising a bombing target area for Naval Aircraft:

§ 204.98 *Tomales Bay, Calif.; Naval Aircraft bombing area.*

THE DANGER ZONE

(a) The circular area having a radius of 750 yards, the center of which is 2,000 yards, 129° true from the southwesterly extremity of Tom Point.

THE REGULATIONS

(b) (1) No vessel shall enter or remain in the danger zone excepting vessels of the United States.

(2) The regulations in this part shall be enforced by the Commandant, Twelfth Naval District and Naval Operating Base,

[1] § 204.98 is added.

San Francisco, and such agencies as he may designate. (Sec. 7, River and Harbor Act, Aug. 8, 1917 (40 Stat. 266; 33 U.S.C. 1)) [Regs. May 14, 1941 (E.D. 7195 (San Pablo Bay)—14/1)]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-3711; Filed, May 24, 1941; 9:29 a. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 117]

PART 138—RULES AND REGULATIONS FOR ISSUANCE OF CERTIFICATES AND CONTINUOUS DISCHARGE BOOKS

MAY 23, 1941.

Section 138.8 (g) is hereby amended to read as follows:

§ 138.8 *Rules for preparation and issue of certificates of service and efficiency.*

* * * * *

(g) If an applicant has had a certificate revoked and is seeking a new one in any rating, he shall, in his application therefor, state the date of revocation and the number of his former certificate. Before the Board of Local Inspectors shall make its determination as to whether the issuance of such new certificate is compatible with the requirements of good discipline and safety at sea, it shall forward the application, together with any other statements or information in the case, to the Director, who shall thereupon furnish the board with any pertinent information in the Bureau's files, and also his comments respecting the matter. (Section 13 (g), 49 Stat. 1933, 46 U.S.C. Supp. V, 672 (g))

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of Commerce.

[F. R. Doc. 41-3714; Filed, May 24, 1941; 10:30 a. m.]

TITLE 50—WILDLIFE

CHAPTER I—FISH AND WILDLIFE SERVICE

PART 23—SOUTHWESTERN REGION NATIONAL WILDLIFE REFUGES

WICHITA MOUNTAINS WILDLIFE REFUGE, OKLAHOMA

Pursuant to authority contained in regulation 2 of the regulations effective December 2, 1936,[1] for the administration of the Wichita Mountains Wildlife Refuge, Oklahoma, the regulation governing fishing, approved May 25, 1939, is hereby amended for the calendar year 1941 *only* as follows:

[1] 1 F.R. 2080.

Section 23.969[2] (*Suspending fishing within certain waters within the Wichita Mountains Wildlife Refuge, Oklahoma*) is amended by striking out the words and figures reading "May 30" appearing therein and inserting in lieu thereof the words and figures "May 24."

Section 23.969 (a) (3) is amended by striking out the words "Crater Lake, Osage Lake, and Burford Lake" and adding thereto the words "Jed Johnson Lake, that part of Rush Lake east of the big-game fence, Little Medicine Creek within the refuge boundary, that part of Elmer Thomas Lake situated within the refuge boundary, West Post Oak Lake, and Treasure Lake."

W. C. HENDERSON,
Acting Director.

MAY 23, 1941.

[F. R. Doc. 41-3728; Filed, May 26, 1941, 9:56 a. m.]

[2] 4 F.R. 2198, 5 F.R. 2140.

Notices

TREASURY DEPARTMENT.

Bureau of the Public Debt.

[1941 Department Circular No. 660]

OFFERING OF 2 PERCENT DEPOSITARY BONDS

I. OFFERING OF BONDS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, gives notice of a special issue of bonds of the United States, designated 2 Percent Depositary Bonds. These bonds may be subscribed for, at par, by depositaries and financial agents designated under the provisions of section 5153 of the Revised Statutes of 1873, as amended (U.S.C., title 12, sec. 90); the Act of May 7, 1928, 45 Stat. 492, (U.S.C., title 12, sec. 332); and the Act of June 19, 1922, 42 Stat. 662, (U.S.C., title 31, sec. 473), which have executed a depositary, financial agency and collateral agreement satisfactory to the Secretary of the Treasury. The bonds will be sold to such depositaries and financial agents in an amount not exceeding in any case the amount for which the depositary and financial agent is qualified, which qualification may be adjusted on a quarterly basis in direct proportion to the amount and character of essential Government business transacted.

II. DESCRIPTION OF BONDS

1. The bonds of this issue will be dated June 1, 1941. They will bear interest at the rate of 2 percent per annum, payable on a semiannual basis on June 1 and December 1 in each year until the principal amount becomes payable. Each bond will be issued as of, and will bear interest from, the date payment therefor is received, and will mature twelve years from such date, but may be redeemed at the option of the United States or the depositaries and financial agents, in whole or in part, at par and accrued interest, at any time, upon not less than 30 nor more than 60 days' notice in writing given by either party to the other. From the date of redemption designated in any such notice, interest on the bond or bonds or any part thereof to be redeemed shall cease, and the unredeemed portion, if any, shall be reissued bearing the same issue date as the bond surrendered. Any such notice of redemption given by a depositary and financial agent shall be addressed to the Secretary of the Treasury, Washington, D. C.

2. The income derived from the bonds shall be subject to all Federal taxes now or hereafter imposed. The bonds shall be subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of federal funds with, and the faithful performance of duties by, depositaries and financial agents designated under the provisions of section 5153 of the Revised Statutes of 1873, as amended (U.S.C., title 12, sec. 90); the Act of May 7, 1928, 45 Stat. 492, (U.S.C., title 12, sec. 332); and the Act of June 19, 1922, 42 Stat. 662, (U.S.C., title 31, sec. 473), and may not be obtained or used for any other purpose. They will be issued in registered form only in the name of the Treasurer of the United States in trust for the depositaries and financial agents to which they are allotted, and they will not be transferable. They will be subject to the general regulations of the Treasury Department with respect to United States bonds, so far as applicable.

III. GENERAL PROVISIONS

1. The Secretary of the Treasury may, at any time, or from time to time, prescribe supplemental or amendatory rules and regulations with respect to this issue of bonds, and he may terminate the issue at any time without notice.

[SEAL] HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 41-3747; Filed, May 26, 1941; 11:13 a. m.]

NAVY DEPARTMENT.

[Nord-78]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: THE MIDVALE COMPANY, NICETOWN, PHILADELPHIA, PA.

Under date of January 21, 1941, a contract was entered into by the Chief of the Bureau of Ordnance of the Navy Department with The Midvale Company for the

manufacture of projectiles. The contract was for a fixed price, with the price adjustment clause covering increase in cost of labor and materials, the total consideration being $1,638,615.80. Award of this contract was made on the basis of competitive bidding.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3732; Filed, May 26, 1941; 9:56 a. m.]

[Nord-76]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: BETHLEHEM STEEL COMPANY, BETHLEHEM, PA.

Under date of January 21, 1941, a contract was entered into by the Chief of the Bureau of Ordnance of the Navy Department with the Bethlehem Steel Company for the manufacture of projectiles. The contract was for a fixed price, with price adjustment clause covering increase in cost of labor and materials, the total consideration being $1,709,112.00. Award of this contract was made on the basis of competitive bidding.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3729; Filed, May 26, 1941; 9:56 a. m.]

[Nord-97]

SUMMARY OF CONTRACT FOR EQUIPMENT

CONTRACTOR: BETHLEHEM STEEL COMPANY, BETHLEHEM, PENNA.

Under date of February 7, 1941, a contract was entered into by the Chief of the Bureau of Ordnance of the Navy Department with the Bethlehem Steel Company for the manufacture of armor. The contract was for a fixed price, with price adjustment clause covering increase in cost of labor and materials, the total consideration being $1,658,208.31.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3731; Filed, May 26, 1941; 9:56 a. m.]

[Nord-94]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: BETHLEHEM STEEL COMPANY, BETHLEHEM, PA.

Under date of February 15, 1941, a contract was entered into by the Chief of the Bureau of Ordnance of the Navy Department with the Bethlehem Steel Company for the manufacture of projectiles. The contract was for a fixed price, with price adjustment clause covering increase in cost of labor and materials, the total consideration being $1,016,375.00. Award of this contract was made on the basis of competitive bidding.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3730; Filed, May 26, 1941; 9:56 a. m.]

[NOy-4776]

SUMMARY OF CONTRACT FOR CONSTRUCTION

CONTRACTOR: BURNS & ROE, INC., 233 BROADWAY, NEW YORK, NEW YORK

MAY 14, 1941.

On May 13, 1941, the Navy Department entered into a contract (NOy-4776) with Burns & Roe, Inc., 233 Broadway, New York, New York, for the improvement to power plant at the Naval Operating Base, Norfolk, Virginia, at an estimated cost of $1,225,000, including a fixed fee of $56,000 payable to the Contractors.

The contract, among other things, further provides that the Navy Department may at any time make changes in approved drawings and/or specifications and, if such changes or additions to or omissions from the original project cause a material increase or decrease in the amount or character of the work to be done under the contract, or in the time required for its performance, an equitable adjustment in the amount of the fixed fee to be paid to the Contractors shall be made and the contract shall be modified accordingly. The contract also contains provisions for the termination of the contract by the Government and for an equitable settlement with the Contractors under the contract in the case of such termination.

B. MOREELL,
Chief of Bureau.

[F. R. Doc. 41-3733; Filed, May 26, 1941; 9:56 a. m].

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-21]

PETITION OF THE J. T. HILL COAL COMPANY FOR REVISION OF EFFECTIVE MINIMUM PRICES FOR LOCOMOTIVE FUEL FOR MINES IN PRODUCTION GROUP 3 OF DISTRICT 15

ORDER OF THE DIRECTOR DENYING FINAL RELIEF

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with the Bituminous Coal Division on August 22 and October 21, 1940, by the Hill Coal Company, a code member in District 15, seeking revision of the effective minimum prices for coals shipped from the Hill's Mine (Mine Index No. 58) of the J. T. Hill Coal Company for railroad locomotive fuel and stationary boiler use; and

A hearing having been held, after due notice to all interested persons, before a duly designated Examiner of the Division at a Hearing Room of the Division, City Council Chamber, 310 North Clark Street, Moberly, Missouri, on November 15, 1940; and

The parties to this proceeding having waived the preparation and filing of a report by the Examiner, and the matter thereupon having been submitted to the Director; and

The Director having made Findings of Fact and Conclusions of Law and rendered an Opinion in this matter, which are filed herewith:

It is ordered, That the prayers for relief in the original petitions herein be and they hereby are denied.

Dated: May 23, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3743; Filed, May 26, 1941; 11:03 a. m.]

[Docket No. A-40]

PETITION OF THE OHIO & PENNSYLVANIA COAL COMPANY, A PRODUCER IN DISTRICT NO. 4, FOR A REDUCTION IN CERTAIN EFFECTIVE MINIMUM PRICES FOR SCREENINGS

[Docket No. A-41]

PETITION OF THE POWHATAN MINING COMPANY, A PRODUCER IN DISTRICT NO. 4, FOR A REDUCTION IN CERTAIN EFFECTIVE MINIMUM PRICES FOR SCREENINGS

MEMORANDUM OPINION AND ORDER

The Ohio & Pennsylvania Coal Company and The Powhatan Mining Company, both producers in District No. 4, have filed a joint application requesting the postponement of the rehearing set in the above-entitled matters for May 28, 1941, and seeking its continuance until the matters can be consolidated or heard in conjunction with a petition which the instant petitioners aver is to be filed by District No. 4 relating to the price relationships of 3/8" slack and 3/4" slack coals. To date no such petition by District Board No. 4 is before us and there is no indication that petitioners are authorized to make any commitments on behalf of District Board No. 4.[1] Therefore, instant petition seeks what is in effect an indefinite postponement of the rehearing.

Consideration of the petition for postponement and continuance can best be given in light of the history of this en-

[1] It is of interest that District Board 4 filed, on February 21, 1941, a petition seeking the establishment of a separate classification and price for the 3/8" x 0 slack coal of District No. 4 moving into certain designated market areas. Following the filing of this petition, petitions for leave to intervene were filed on behalf of several other district boards and by some producers. Thereafter District Board 4 moved to dismiss its petition and this was granted. See Docket A-691.

tire proceeding, in which the instant petition is but the latest step. On September 27, 1940, The Ohio & Pennsylvania Coal Company and The Powhatan Mining Company, by separate petitions filed pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, sought, speaking generally, reductions in the effective price classifications and minimum prices applicable to 3/8" x 0 coals produced at the mine of each petitioner for shipment by rail into Market Areas 11, 13, 15, and 21. Both petitions prayed for the issuance of temporary, as well as final, orders.[2]

An informal conference concerning the matter of temporary relief, pending final disposition of the petitions, was held on October 10, 1940. This was two days after my order was entered setting the case for final hearing before an examiner of the Division on November 14, 1940. At the informal conference, where, in addition to the petitioners, there was present the Consumers' Counsel, the District Boards for Districts 1, 2, 3, 4, 6, and 8,[3] a producer in District 7, and a producer in District 4, much attention was directed to the necessity for temporary relief. Affidavits in support of the prayer for temporary relief were filed on behalf of petitioners. For the many reasons fully set forth in the Director's Memorandum Opinion and Order of October 26, 1940, temporary relief was denied and the parties were directed to proceed with the hearing scheduled for November 14. On November 14, the Director revoked the designation of the examiner and presided at said hearing in his place.[4]

The final hearings were held in this matter on November 14, 15, 18, and 19 and were closed on the latter date. In this final hearing, District Boards 1, 2, 3, 4, 6, and 8, four code member producers in District 2, two coal producers in District 8, and the Consumers' Counsel Division were represented. At the final hearing which began on November 14, 1940, petitioners renewed their applications for temporary relief. In addition to the affidavits filed in support of its original prayer for temporary relief, the Powhatan Company filed additional affidavits; additional affidavits in opposition to the petitions were filed by the district boards. Counsel for the original petitioners urged at great length that a ruling on the question of temporary relief in advance of the taking of testimony be made. The Director declined to make such a ruling and ruled that the hearing should proceed as scheduled and evidence taken.[5] The Director, however, reserved the right to issue an order granting temporary relief if and when, during the course of the hearing, it became apparent that petitioners were entitled to such order. As was explained in the Director's findings, at no time during the hearing was such a satisfactory showing made.

Despite the complexity and magnitude of the issues involved in, and the highly controversial nature of, this proceeding, the Director's final order was issued on November 23, 1940, less than two months after the original petitions were filed. The order of November 23 denied the petitioners' request for a modification in the classification and reduction of prices of the 3/8" slack coal. Thereupon the petitioners filed a petition with the Circuit Court of Appeals for the sixth Circuit, asking that the Director's order be set aside. On March 14, 1941, the Circuit Court issued an order in which it held that the Division had committed error in introducing in evidence certain exhibits consisting of a comparative list of prices on sales of various sizes of coal from District No. 4 and other competitive districts, without making known the producers whose prices were used. Accordingly, the court reversed the order and remanded the case for rehearing in accordance with its opinion. Thereafter, on May 9, 1941, in accordance with the court's mandate, the Director issued an order directing that the rehearing be held before him on May 28, 1941.

In view of the oft-repeated assertions of the petitioners that speedy consideration of their petitions was of the essence in order to protect them against losses and the impairment of their markets, the Director has endeavored to proceed without delay in this matter. Petitioners' present request is for an indefinite adjournment of the scheduled rehearing, a rehearing which is being held in accordance with the mandate of the court. Apparently, under present circumstances, petitioners no longer believe that failure to obtain promptly the requested relief will adversely affect their operations for the present petition for continuance states that "it would be * * * prejudicial to petitioners, to proceed with an immediate rehearing * * *."

In substance, the reason which petitioners advance in support of their request for postponement is that there are, or will be, pending before the Division certain proceedings in the course of which consideration will have to be given to matters which are also involved in this proceeding and the decisions in which may be such as to require that any relief now given to petitioners in this proceeding be changed.[6] The possibility that a price once established will have to be changed is ever-present under the Act; indeed, the Act clearly contemplates that prices shall be changed in the light of changed circumstances. It is a contingency which was just as imminent when the petitioners filed their original petitions and were seeking temporary relief as it is now. Yet now the petitioners claim that the very existence of this possibility creates a situation "prejudicial" to them if they were required "to proceed with an immediate rehearing."

Of the proceedings to which the petitioners make reference in support of their motion for continuance of the rehearing, one is presently being heard and because of the number of parties and problems involved a decision in short order is not assured. Another has not yet been heard, and the third is hypothetical in so far as no application has yet been filed and there is no indication when, if at all, it will be filed. To continue the hearing in accordance with the instant request would be to delay needlessly a decision in this case. Substantial time and effort having been already devoted to this matter by the petitioners, intervenors, and the Division, it would be inconsistent with orderly administration now to postpone the matter because of the pendency of other matters the relation of which to this case is not entirely made clear. Certainly a decision in this case is not dependent upon the decisions ultimately rendered in other pending proceedings.

Though the Director has had occasion to deny temporary relief to petitioners in the earlier stages of this proceeding, he has always recognized the need and desirability for a final decision as soon as it could be rendered. The petitioners having instituted this proceeding by their petition accompanied with assertions that an expeditious determination was essential, the matter having evoked widespread interest on behalf of many district boards as well as of individual producers, the issues involved being of importance in the general scheme of price coordination, and the Court of Appeals for the Sixth Circuit having remanded the case to the Director with orders to conduct a "rehearing in accordance with [its] opinion," it seems highly desirable in the public interest that this matter be carried to a conclusion with dispatch.

In the light of the court's mandate and because the instant petition does not establish adequate reason for granting the postponement of the scheduled rehearing, the Director believes that Division counsel should be given an opportunity promptly to introduce in the record in this matter such evidence as he deems

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[2] Pursuant to the consent of the parties, the petitions were consolidated for the purpose of the hearing.

[3] These district boards were unanimous in their opposition to the request for temporary relief.

[4] The effect of this was to dispense with any need for an intermediate report by the examiner and to permit the Director to decide the matter promptly. This was done primarily because of the petitioners' expressed desire for an expeditious decision.

[5] The reasons for this ruling are more fully explained in part IV of the Director's Findings accompanying the Order of November 23, 1940.

[6] These proceedings are: (1) the present General Docket No. 21 proceeding in which the major issue involved is whether there has been such a change in the weighted average costs of production to require a revision of the effective minimum prices; (2) a petition by the Consumers' Counsel Division (Docket No. A-597) seeking a reduction in the minimum prices for slack sizes produced in District 4; and (3) a petition which petitioners here aver will be filed by District Board 4 seeking a reduction in the minimum price of 3/8" x 0 coal moving into certain market areas. See *supra*, note 1. Appended to the instant petition, however, is the statement by District Board 4 that it does not object to petitioners' present request for a continuance.

necessary to correct the error which the Circuit of Appeals for the Sixth Circuit found was committed in the earlier hearing. Denial of the instant petition is, however, without prejudice to petitioners' rights thereafter to request a continuance for the purpose of introducing further evidence either in the light of any supplementary material which Division counsel may introduce at the rehearing or otherwise.

In view of the circumstances set forth above, the Director concludes that the instant petition for adjournment and continuance of the rehearing should be denied.

Accordingly, it is so ordered.

Dated: May 23, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3741; Filed, May 26, 1941; 11:02 a. m.]

[Docket No. A-185]

PETITION OF THE ALBUQUERQUE AND CERRILLOS COAL COMPANY APPLYING FOR RELIEF IN MAKING CERTAIN PRICES APPLICABLE ONLY FOR SHIPMENTS OF COAL FOR USE BY THE FEDERAL GOVERNMENT AND AGENCIES THEREOF WHEN SHIPPED FROM SUBDISTRICT 2 OF DISTRICT NO. 18 INTO MARKET AREAS 228 (IN NEW MEXICO), 229, 232 AND 236

[Docket No. A-265]

PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 18 FOR CHANGES IN THE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS PRODUCED AND SOLD IN DISTRICT NO. 18

[Docket No. A-857]

PETITION OF DISTRICT BOARD NO. 17 FOR REVISION OF THE EFFECTIVE MINIMUM PRICES FOR CERTAIN COALS PRODUCED AT THE MINES IN SUBDISTRICTS 7, 8, AND 9 IN DISTRICT NO. 17

ORDER OF CONSOLIDATION AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-857

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties; and it appearing that the issues presented by the petition in Docket No. A-857 are analogous to those raised in the heretofore consolidated matters in Dockets A-185 and A-265, which have been reopened and set for further hearing in Washington, D. C., on June 10, 1941;

It is ordered, That the above-entitled matter in Docket No. A-857 be, and the same hereby is, consolidated with the heretofore consolidated matters in Dockets Nos. A-185 and A-265; *Provided, however,* That the evidence heretofore adduced in the hearing already held in Dockets Nos. A-185 and A-265 shall not be aplicable to or determinative of the issues presented in Docket No. A-857, in the absence of an express stipulation to that effect between the parties in the latter docket.

It is further ordered, That the hearing heretofore scheduled in Dockets Nos. A-185 and A-265 for June 10, 1941, at Washington, D. C., shall include a hearing in the above-entitled matter in Docket No. A-857 under the applicable provisions of said Act and the rules of the Division, and which hearing shall be held on June 10, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Chas. S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions of law and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petitions is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before June 5, 1941.

All persons are hereby notified that the hearing in the above-entitled matters and any orders entered therein, may concern, in addition to the matters specifically alleged in the petitions, other matters necessarily incidental and related thereto, which may be raised by amendment to the petitions, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of the petitions.

The matters concerned herewith are in regard to: (1) As to Dockets Nos. A-185 and A-265 the modification of the effective minimum prices in the instance of coal offered for sale or sold to the United States of America and agencies thereof for use within Market Areas 228 (in New Mexico), 229, 232 and 236; and (2) as to Docket No. A-857 the revision of the effective minimum prices for the coals in Size Groups 1 to 11, inclusive, produced at the mines in Subdistricts 7, 8, and 9 in District No. 17 for shipment by rail into Market Areas 228 and 232 upon certain sales to agencies or departments of the United States of America, and more particularly for reductions in such prices for such coals, for rail shipment into such Market Areas, when not entitled to move on land grant freight rates or land grant equalized freight rates.

Dated: May 24, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3739; Filed, May 26, 1941; 11:01 a. m.]

[Docket No. A-530]

IN THE MATTER OF THE PROPOSED REVISION OF THE EFFECTIVE MINIMUM PRICES APPLICABLE TO SALES OR DELIVERIES OF COAL BY BERWIND FUEL COMPANY, CARNEGIE DOCK AND FUEL COMPANY, AND CERTAIN OTHER DISTRIBUTORS OR CODE MEMBERS, AND THEIR SUBSIDIARIES OR AFFILIATES, OPERATING DOCKS LOCATED ON LAKE SUPERIOR AND LAKE MICHIGAN, SO AS TO PERMIT THE PERFORMANCE OF CERTAIN OUTSTANDING CONTRACTS IN ACCORDANCE WITH THEIR TERMS, PURSUANT TO SECTION 4 II (b) OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISMISSAL

Wisconsin Great Lakes Coal and Dock Company, Great Lakes Coal & Dock Company, and Milwaukee Western Fuel Company, parties to the above proceeding, having filed a petition on April 23, 1941, requesting modification of the Order of the Director dated March 18, 1941, granting final relief, and

Subsequently thereto, the above parties having requested dismissal of their petition filed on April 23, 1941, and there being no opposition to this request,

It is ordered, That the petition filed by the above parties on April 23, 1941, requesting modification of the permanent relief granted herein be, and it is hereby, dismissed.

Dated: May 23, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3742; Filed, May 26, 1941; 11:03 a. m.]

[Docket No. A-672]

PETITION OF DISTRICT BOARD 9, REQUESTING AN INCREASE OF 10 CENTS PER NET TON IN THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR WASHED COALS IN SIZE GROUPS 1-8, INCLUSIVE, PRODUCED BY ALL CODE MEMBERS IN DISTRICT NO. 9, EXCEPT THE SENTRY COAL MINING COMPANY, MINE INDEX NO. 72, FOR RAIL SHIPMENT INTO ALL MARKET AREAS, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING ON TEMPORARY AND PERMANENT RELIEF

The above-entitled matter having been assigned for public hearing on temporary and permanent relief before W. A.

Shipman, the duly designated Trial Examiner, on May 27, 1941, at 10 o'clock a. m., at a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C.; and

Original petitioner having filed with the Division a motion that said hearing be postponed until June 25, 1941; and

The Director finding that a reasonable showing of necessity has been made for the granting of said motion;

It is ordered, That the hearing on temporary and permanent relief in the above-entitled matter be and it hereby is postponed from May 27, 1941, at 10 o'clock a. m., until June 25, 1941, at 10 o'clock a. m., at the place and before the officers heretofore designated.

It is further ordered, That the time for filing petitions of intervention in the above-entitled matter be, and it hereby is, extended until June 19, 1941.

Dated: May 24, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3737; Filed, May 26, 1941; 11:01 a. m.]

[Docket No. A-758]

PETITION OF THE YOUGHIOGHENY AND OHIO COAL COMPANY FOR PERMISSION TO ABSORB CERTAIN DIFFERENTIALS IN TRANSPORTATION CHARGES INVOLVED IN SHIPMENTS FROM ITS MILWAUKEE DOCK TO CERTAIN DESTINATIONS IN PORT EQUALIZATION TERRITORY IN MARKET AREAS 42 AND 43, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING AND ORDER DENYING MOTION FOR TEMPORARY RELIEF

The original petitioner has filed a motion for further postponement of the hearing in the above-entitled matter originally scheduled for April 22, 1941, and postponed to May 26, 1941, at Washington, D. C.

Petitioner has also requested that, pending final disposition of the petition herein, it be allowed to absorb certain differentials in vessel rates, switching rates, and freight rates as prayed for in the Original petition and the Amended and Supplemental petition herein.

There has been no opposition to the postponement of the hearing as hereinafter provided. The Bituminous Coal Producers Board for District No. 7, intervener, opposed the granting of temporary relief on the ground that an attempt to reflect coordination between docks in terms of mine prices would be of doubtful wisdom and practicality and, if undertaken at all, should be made only after a full hearing and investigation.

The Director finds that the petitioner has made no adequate showing of actual or impending injury in the event the temporary relief is not granted, and further finds that the granting of this relief would unduly prejudice other interested persons in advance of a hearing, and that no sufficiently clear showing has been made that petitioner is entitled to the relief prayed.

It further appears that the temporary relief requsted involves matters which are complex in nature and involve many issues of fact. These matters can be disposed of only after a full presentation of all relevant evidence at the hearing to be held herein. The Director is of the opinion that the matter involved is of such import and of such scope as not to be a proper subject of an order concerning temporary relief. The Director is, therefore, of the opinion that temporary relief should be denied at this time without prejudice. The original petitioner may renew its application for temporary relief upon the record to be made at the hearing to be held as hereinafter provided.

Now, therefore, it is ordered, That the hearing in the above-entitled matter be postponed from 10 o'clock in the forenoon of May 26, 1941 until 10 o'clock in the forenoon of June 17, 1941 at the place heretofore designated and before the officers previously designated to preside at such hearing.

It is further ordered, That the motion for temporary relief be, and the same hereby is, denied without prejudice.

Dated: May 24, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3738; Filed, May 26, 1941; 11:01 a. m.]

[Docket No. 1540-FD]

IN THE MATTER OF COSTANZO COAL MINING COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 1897, DEFENDANT

ORDER POSTPONING HEARING

The above-entitled proceeding having been scheduled for hearing on May 26, 1941, in Court Room No. 4, New Federal Building, Pittsburgh, Pennsylvania, before Charles O. Fowler, a Trial Examiner of the Division, and the defendant in the above-entitled matter having filed a motion requesting that the hearing be postponed, and upon good cause shown;

It is ordered, That the hearing in the above-entitled matter be postponed until 10 o'clock in the forenoon of June 9, 1941, at the New Federal Building, Pittsburgh, Pa., before W. A. Cuff.

The time for filing petitions of intervention in the above-entitled matter is hereby extended until June 4, 1941.

Dated: May 24, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3736; Filed, May 26, 1941; 11:01 a. m.]

[Docket No. 1599-FD]

IN THE MATTER OF ARCHIE LAWSON, DEFENDANT

[Docket No. 1600-FD]

IN THE MATTER OF MCHENRY BROS. COAL COMPANY, DEFENDANT

[Docket No. 1610-FD]

IN THE MATTER OF J. D. HAWKINS, DOING BUSINESS AS J. D. HAWKINS COAL COMPANY, DEFENDANT

[Docket No. 1611-FD]

IN THE MATTER OF E. M. LEEPER, TRADING AS LEEPER COAL COMPANY, DEFENDANT

[Docket No. 1615-FD]

IN THE MATTER OF E. D. LONG, TRADING AS E. D. LONG & SONS, DEFENDANT

[Docket No. 1652-FD]

IN THE MATTER OF LEO HAYWOOD, DEFENDANT

ORDER DENYING REQUEST FOR CONTINUANCE TO A LATER DATE

The above-entitled matters having been previously assigned for public hearings before Trial Examiner W. A. Shipman at various times and places; and

The Bituminous Coal Producers Board for District No. 15 having filed a request with the Division for the continuance to a later date of the hearings in the above-entitled matters; and

The Director deeming that a reasonable showing of necessity has not been made for the granting of said request and that said request if granted will cause an undue hardship on other interested parties;

Now, therefore, it is ordered, That the request for continuance to a later date of hearings in the above-entitled matters be and the same hereby is denied. Accordingly, the hearings will be held at the times and places heretofore designated and before the officer previously designated to preside at said hearings.

Dated: May 23, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3740; Filed, May 26, 1941; 11:02 a. m.]

[Docket No. 1622-FD]

IN THE MATTER OF J. Q. CLARKE COAL COMPANY, INC., DEFENDANT

ORDER CANCELING HEARING

The Director, on May 16, 1941, upon the consent of J. Q. Clarke Coal Company, Inc., defendant in the above-entitled matter, having entered an order suspending the registration of said defendant as a distributor to and including September 30, 1941;

It is ordered, That the hearing in this matter previously scheduled for May 26, 1941, at 10 a. m., in Court Room No. 4, New Federal Building, Pittsburgh, Penn-

sylvania, be and it hereby is canceled.
Dated: May 24, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3744; Filed, May 26, 1941; 11:03 a. m.]

DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

[Regulations, Serial Number 159]

RESTRICTION OF AIR TRAFFIC OVER THE INDIANAPOLIS SPEEDWAY AND VICINITY

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 23d day of May 1941.

It appearing that: (a) The Indianapolis Speedway races will be held at the Indianapolis Speedway, Indianapolis, Indiana, on Memorial Day, May 30, 1941;

(b) The public interest in the Indianapolis Speedway races will attract a great number of visitors to the speedway and cause numerous aircraft to engage in sightseeing flights in the vicinity of the Speedway;

The board finds that: It is necessary, in the public interest and in order to promote safety in air commerce and to protect adequately persons and property on said Speedway and the area adjacent thereto, to prohibit the flight of aircraft over the Indianapolis Speedway and, further, to require aircraft operating within a three-mile radius of the Speedway to be flown at a minimum altitude of 2,000 feet and in a counter-clockwise circle around the Speedway.

Now, therefore, the Civil Aeronautics Board, acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 (a) of said Act, makes and promulgates the following special regulation, effective May 23, 1941:

Between the hours of official sunrise and sunset on May 30, 1941, all aircraft within a three-mile radius of the Indianapolis Speedway, Indianapolis, Indiana, shall conform to the following air traffic rules:

(1) Aircraft shall not be flown within 1,000 feet horizontally of the boundaries of the Indianapolis Speedway;

(2) Aircraft shall be flown at an altitude of not less than 2,000 feet and in a counter-clockwise circle;

(3) Aircraft towing banners shall remain not less than 1,000 feet from any other aircraft towing banners.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 41-3735; Filed, May 26, 1941; 10:22 a. m]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING RE EMPLOYMENT OF LEARNERS IN THE SHADE DIVISION OF THE PORTABLE LAMP AND SHADE INDUSTRY AT WAGES LOWER THAN THE MINIMUM RATE APPLICABLE UNDER THE ADMINISTRATOR'S WAGE ORDER FOR THIS INDUSTRY

Whereas, on November 18, 1940 Industry Committee No. 16 for the Portable Lamp and Shade Industry, duly appointed pursuant to Sections 5 and 8 of the Fair Labor Standards Act, made its recommendation for the Portable Lamp and Shade Industry as defined in Administrative Order No. 65; and

Whereas, the Findings and Opinion of the Administrator were published on May 9, 1941 giving approval to the recommendation of Industry Committee No. 16; and

Whereas, the Administrator's Wage Order, pursuant to the above Findings and Opinion, prescribing a minimum wage rate of 40 cents per hour for workers in the Portable Lamp and Shade Industry becomes effective July 1, 1941; and

Whereas, several employers in the Shade Division of the Portable Lamp and Shade Industry have through applications for a special certificate to employ learners at a subminimum rate and through correspondence and/or conferences with the Division indicated the need for a public hearing to consider the learner question on this matter on an industry-wide basis; and

Whereas, Industry Committee No. 16 in its Report and Recommendation to the Administrator expressed the opinion that special certificates "in amounts found necessary by the Administrator should be granted to those who have not previously been employed in the shade industry for a period of not more than two months at 35 cents per hour,"

Now, therefore, notice is hereby given of a public hearing to commence at 10:00 a. m. on June 9, 1941 in Room 3229 in the Department of Labor Building, 14th Street and Constitution Avenue, Washington, D. C., before Dr. Gustav Peck, Assistant Director of the Hearings Branch, hereby duly authorized to conduct said hearing as Presiding Officer, and to make findings and recommendations with respect to the following matters:

(a) What, if any occupation or occupations in the Shade Division of the Portable Lamp and Shade Industry requires a learning period, and

(b) The factors which may have a bearing upon curtailment of opportunities for employment within the Shade Division of the Portable Lamp and Shade Industry, and

(c) Under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued to employers in the Shade Division of the Portable Lamp and Shade Industry for whatever occupation or occupations, if any, are found to require a learning period.

The definition of the term "Shade Division of the Portable Lamp and Shade Industry" for the purpose of this hearing, shall be the same as that used in the Administrator's Wage Order for the Portable Lamp and Shade Industry as published in the FEDERAL REGISTER. This definition is as follows: "The manufacturing, assembling, and decorating of lamp shades of any material except metal, glass, or plastic."

Any interested party wishing to appear at this hearing may do so by filing notice of intention and approximate time required with Dr. Gustav Peck, Assistant Director of the Hearings Branch, Wage and Hour Division, U. S. Department of Labor, Washington, D. C., prior to June 9, 1941, or if unable to appear, may file briefs and arguments pertaining to this hearing so that they are received by June 16, 1941.

On the close of the hearing, the Presiding Officer shall file a complete record of the proceeding with, and shall make findings of fact and recommendations to the Administrator.

Signed at Washington, D. C., this 24th day of May 1941.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 41-3757; Filed, May 26, 1941; 11:52 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940 as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective May 26, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Alan Dress Company, 808 Chestnut Street, Kulpmont, Pennsylvania; Apparel; Dresses; 4 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Bedford Undergarment Corporation, 255 Grant Avenue, East Newark, New Jersey; Apparel; Ladies' Underwear; 5 percent (75% of the applicable hourly minimum wage); May 26, 1942.

Bristol Frocks, Franklin Street, Bristol, Rhode Island; Apparel; Cotton Dresses; 20 learners (75% of the applicable hourly minimum wage); September 8, 1941.

Brook's Manufacturing Company, Manville, New Jersey; Apparel; Boys' & Men's Shirts & Pajamas; 10 learners (75% of the applicable hourly minimum wage); September 22, 1941.

A. Cohen Brassieres, Inc., 395 Fourth Avenue, New York, New York; Apparel; Corsets & Brassieres; 5 learners (75% of the applicable hourly minimum wage); August 18, 1941.

D'Amour Foundations Company, 135 Madison Avenue, New York, New York; Apparel; Brassieres; 5 learners (75% of the applicable hourly minimum wage); August 18, 1941.

Daisy Sportswear, Inc., 505 Court Street, Brooklyn, New York; Apparel; Snow Suits & Ski Pants; 20 learners (75% of the applicable hourly minimum wage); September 22, 1941.

The Davidson Brothers Corporation, Royal Square, Riverpoint, Rhode Island; Apparel; Ladies' Silk & Rayon Underwear; 5 percent (75% of the applicable hourly minimum wage); May 26, 1942.

Ely & Walker Dress Factory, 8th and Hickory Streets, St. Louis, Missouri; Apparel; Dresses; 60 learners (75% of the applicable hourly minimum wage); September 22, 1941.

Essex Undergarment Company, 800 McCarter Highway, Newark, New Jersey; Apparel; Women's Undergarments; 5 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Euclid Manufacturing Company, 1285 West Sixth Street, Cleveland, Ohio; Apparel; Overalls, Coveralls; 3 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Farah Manufacturing Company, 208 San Francisco Street, El Paso, Texas; Apparel; Pants; 3 learners (75% of the applicable hourly minimum wage); May 26, 1942.

The Flossie Dress Company, 795 Atlantic Street, Stamford, Connecticut; Apparel; Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); September 22, 1941.

Glad Uniform Company, 125 Dwight Street, Springfield, Massachusetts; Apparel; Women's Washable Uniforms & Aprons; 2 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Jaffee Brothers, 94–21 Merrick Boulevard, Jamaica, New York; Apparel; Infants' Outerwear; 5 percent (75% of the applicable hourly minimum wage); November 26, 1941.

Jahes Handkerchief Corporation, 109 Long Avenue, Hillside, New Jersey; Apparel; Handkerchiefs; 6 learners (75% of the applicable hourly minimum wage); September 8, 1941.

Louis Kazon, Main Street, Poultney, Vermont; Apparel; Dresses; 10 learners (75% of the applicable hourly minimum wage) September 22, 1941.

Ken Kad Corporation, 221 Pleasant Street, Fall River, Massachusetts; Apparel; Robes; 5 learners (75% of the applicable hourly minimum wage) May 26, 1942.

Kleeson Company, Jefferson Avenue, Moundsville, West Virginia; Apparel; Cotton Pants & Breeches; 7 learners (75% of the applicable hourly minimum wage) September 22, 1941.

Maple Manufacturing Company, Inc., 811–23 Cherry Street, Philadelphia, Pennsylvania; Apparel; Sportswear, Outerwear; 5 learners (75% of the applicable hourly minimum wage) May 26, 1942.

Middlesex Company, Inc., 284 State Street, Perth Amboy, New Jersey; Apparel; Shirts; 5 percent (75% of applicable hourly minimum wage) May 26, 1942.

Milco Undergarment Company, Susquehanna Avenue, Berwick, Pennsylvania; Apparel; Slips, Panties; 5 percent (75% of the applicable hourly minimum wage) May 26, 1942.

Milco Undergarment Company, 550 East Fifth Street, Bloomsburg, Pennsylvania; Apparel; Slips, Panties; 5 percent (75% of the applicable hourly minimum wage) May 26, 1942.

Monarch Blouse Company, 1024 Filbert Street, Philadelphia, Pennsylvania; Apparel; Ladies' Blouses; 2 learners (75% of the applicable hourly minimum wage) May 26, 1942.

The Progressive Coat & Apron Manufacturing Company, Tenth and Norris Streets, Philadelphia, Pennsylvania; Apparel; White Duck Garments; 30 learners (75% of the applicable hourly minimum wage) August 18, 1941.

S. Rosenbloom, Inc., 408 W. Lombard Street, 12 North Paca Street, 318–20 West Baltimore Street, Baltimore, Maryland; Apparel; Bath Robes, Trousers, Jungle Trousers, Jungle Coats; 10 percent (75% of the applicable hourly minimum wage); August 18, 1941.

Sidor Pants Company, 1007 Jackson Street, Dallas, Texas; Apparel; Trousers; 25 learners (75% of the applicable hourly minimum wage); August 18, 1941.

Simei Shirt Company, 40 South Laurel Street, Rear, Bridgeton, New Jersey; Apparel; Ladies' Blouses; 5 learners (75% of the applicable hourly minimum wage); May 26, 1942. (This certificate replaces one issued to your plant at Cohansey Street, effective December 30, 1940.)

Stark's Sportswear, 1213 South Main Street, Los Angeles, California; Apparel; Ladies' Slack Suits; 3 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Studio Craft Clothes, 407 East Pico Street, Los Angeles, California; Apparel; Men's Coats & Suits; 2 learners (75% of the applicable hourly minimum wage); May 26, 1942.

Vanity Corset Company, Inc., 16 East 34th Street, New York, New York; Apparel; Foundation Garments, Corsets; 5 learners (75% of the applicable hourly minimum wage); September 29, 1941.

The Warren Featherbone Company, Three Oaks, Michigan; Apparel; Aprons, Baby Pants, Garters, Raincapes, Raincoats; 5 percent (75% of the applicable hourly minimum wage); May 26, 1942.

Dinberg Glove Corporation, 215 Gilbert Street, Ogdensburg, New York; Gloves; Leather Dress Gloves; 5 learners; May 26, 1942.

Dinberg Glove Corporation, 215 Gilbert Street, Ogdensburg, New York; Gloves; Leather Dress Gloves; 5 learners; November 26, 1941.

Smart Set Glove Company, Inc., 15–17 James Street, Gloversville, New York; Gloves; Leather Dress Gloves; 4 learners; May 26, 1942.

American Hosiery Repair, Inc., 57½ Sumner Avenue, Brooklyn, New York; Hosiery; Repairing Silk & Nylon Hosiery; 4 learners; May 26, 1942.

Asheboro Hosiery Mills, Inc., Asheboro, North Carolina; Hosiery; Seamless & Full Fashioned Hosiery; 5 percent; May 26, 1942.

Greenville Full Fashioned Hosiery; Greeneville, N. C.; Hosiery; Full Fashioned Hosiery; 14 learners; January 26, 1942.

Hildebran Hosiery Mill, Hildebran, N. C.; Hosiery; Seamless Hosiery; 5 learners; May 26, 1942.

Holeproof Hosiery Company, Marietta, Georgia; Hosiery; Seamless Hosiery; 30 learners; January 26, 1942.

O. E. Kearns & Son, Inc., High Point, North Carolina; Hosiery; Seamless Hosiery; 5 percent; May 26, 1942.

Massachusetts Textile Company, Globe Mills Avenue, Fall River, Massachusetts; Hosiery; Seamless Hosiery; 3 learners; January 26, 1942.

Minisac Mills, Inc., 88 Collom Street, Germantown, Philadelphia, Pennsylvania; Hosiery; Full Fashioned Hosiery; 1 learner; November 26, 1941.

S & F Hosiery Mills, Inc., Dayton, Tennessee; Hosiery; Full Fashioned Hosiery; 1 learner; July 21, 1941.

Seagrove Hosiery Mill, Seagrove, North Carolina; Hosiery, Seamless Hosiery; 4 learners; May 26, 1942.

Simmons Mills, Inc., 1601 King Street, High Point, North Carolina; Hosiery; Seamless Hosiery; 5 learners; May 26, 1942.

Vanity Fair Stocking Company, New Holland, Pennsylvania; Hosiery; Full Fashioned Hosiery; 10 learners; January 26, 1942.

Williams Hosiery Company, Inc., 304 East Twenty-third Street, New York, New York; Hosiery; Full Fashioned & Seamless Hosiery; 20 learners; January 26, 1942.

American Manufacturing Corporation, Inc., 1052 Constance Street, New Orleans, Louisiana; Knitted Wear; Knitted Underwear; 50 learners; October 13, 1941.

Carbon Knitwear Company, Silk Street, East Mauch Chunk, Pennsylvania; Knitted Wear; Knitted Outerwear; 5 learners; May 26, 1942.

Carbon Knitwear Company, Silk Street, East Mauch Chunk, Pennsylvania; Knitted Wear; Knitted Outerwear; 8 learners; October 13, 1941.

Morris Starrels & Company, K Street and Erie Avenue, Philadelphia, Pennsylvania; Knitted Wear; Sweaters; 5 learners; May 26, 1942.

Morse and Morse, 1013 South Los Angeles Street, Los Angeles, California; Knitted Wear; Knitted Underwear & Outerwear; 5 learners; May 26, 1942.

Modern Throwing Company, Mill A, Bridge & Goepp Streets, Bethlehem, Pennsylvania; Textile; Silk, Rayon, Nylon Yarns; 37 learners; October 9, 1941.

Modern Throwing Company, Mill B, 5th & Williams Streets, Bethlehem, Pennsylvania; Textile; Silk, Rayon, Nylon, Yarns; 41 learners; October 9, 1941.

Signed at Washington, D. C., this 26th day of May 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 41-3758; Filed May 26, 1941; 11:52 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and part 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective May 26, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

American Caramel Company, Lancaster, Pennsylvania; Caramels and Other Candies; 1 learner; 12 weeks for any one learner; 25 cents per hour; Diesel Engine Operator; September 15, 1941.

Signed at Washington, D. C., this 26th day of May 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 41-3759; Filed, May 26, 1941; 11:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket Nos. 6111, 6112, 6113]

NOTICE RELATIVE TO MSB BROADCAST COMPANY (KONB)

Application dated January 2, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, Omaha, Nebraska; operating assignment specified: Frequency, 1500 kc.; power, 250 w.; hours of operation, unlimited.

NOTICE RELATIVE TO MSB BROADCAST COMPANY (KNOB)

Application dated September 14, 1940, for modification of C. P.; class of service, broadcast; class of station, broadcast; location, Omaha, Nebraska; present operating assignment (under C. P.): Frequency, 1500 kc. (1490 under NARBA); power, 250 w.; hours of operation, unlimited.

NOTICE RELATIVE TO C. J. MALMSTEN, JOHN K. MORRISON AND ARTHUR BALDWIN (TRANSFERORS) AND ROSS C. GLASMANN, WILLIAM W. GLASMANN AND BLAINE V. GLASMANN (TRANSFEREES)

Application dated September 14, 1940, for transfer of control of MSB Broadcast Co., licensee of Station KONB; class of service, broadcast; class of station, broadcast; location, Omaha, Nebraska; present operating assignment (C. P. only): Frequency, 1500 kc (1490 under NARBA); power, 250 w.; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described applications and has designated the matter for hearing for the following reasons:

1. To determine the qualifications of the applicant to construct and operate the proposed station;

2. To determine whether applications and/or other documents filed with the Commission by MSB Broadcast Company or persons connected therewith contained full and correct information with respect to the qualifications, activities, identity, interests, relationships, plans and purposes of the applicant and of persons connected therewith, or with respect to any other material matters.

3. To determine the nature of negotiations, arrangements and activities of the applicant and of persons connected therewith in relation to the organization, management, and activities of the applicant, the preparation and prosecution of applications before the Commission, the construction of the proposed station, and attempts to assign applicant's construction permit.

4. To determine whether the granting of any or all of the applications mentioned above would serve public interest, convenience or necessity.

The applications involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicants on the basis of a record duly and properly made by means of a formal hearing.

The applicants are hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of §1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicants who desire to be heard must file a petition to intervene in accordance with the provisions of §1.102 of the Commission's Rules of Practice and Procedure.

The applicants' addresses are as follows:

MSB Broadcast Company, Radio Station KONB, Omaha, Nebraska.

C. J. Malmsten, John K. Morrison, and Arthur Baldwin (Transferors), % Arthur Baldwin, 125 E. 5th Street, Fremont, Nebraska.

Ross C. Glasmann, William W. Glasmann, and Blaine V. Glasmann (Transferees), % Ross C. Glasmann, 2411 Kiesel Avenue, Ogden, Utah.

Dated at Washington, D. C., May 22, 1941.

By the Commission.

[SEAL] T J. SLOWIE,
Secretary.

[F. R. Doc. 41-3713; Filed, May 24, 1941; 9:35 a. m.]

[Docket No. 5017]

NOTICE RELATIVE TO EVERGREEN BROADCASTING CORP. (KEVR)

Application dated December 15, 1937, for construction permit; class of service, broadcast; class of station, broadcast; location, Seattle, Washington; operating assignment specified: Frequency 1090 kc. (under NARBA); power, 250 w.; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the character and extent of the area, together with the number of potential listeners residing therein, to which Station KEVR, operating as proposed, may be expected to render interference free primary service during both daytime and nighttime hours.

2. To determine whether the proposed operation of KEVR with 250 watts power on the frequency 1090 kilocycles would be a proper and efficient use of the channel and would be consistent with good engineering practice.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Evergreen Broadcasting Corporation, Radio Station KEVR, Room 1103, 1411 4th Avenue Building, Seattle, Washington.

Dated at Washington, D. C., May 23, 1941.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 41-3725; Filed, May 26, 1941; 9:36 a. m.]

[Docket No. 5997]

NOTICE RELATIVE TO EDWARD E. REEDER (NEW)

Application dated July 16, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, Seattle, Washington; operating assignment specified: Frequency, 1,420 kc. (1,450 on Havana Treaty); power, 250 w.; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons.

1. To determine the nature, extent and effect of the electrical interference which would be expected to result should the station proposed by the above application operate simultaneously with the station to be constructed at Everett, Washington, by the Cascade Broadcasting Company, Inc., as authorized by the Commission.

2. To determine the nature, extent and effect of the electrical interference which would be expected to result should the station proposed by the above application operate simultaneously with the station to be constructed by Michael J. Mingo at Tacoma Washington, as authorized by the Commission.

3. To determine the amount, nature and character of radio broadcast service available to the listeners residing in the predicted service area of the proposed station and to those living in the predicted service areas of the stations to be constructed by Cascade Broadcasting Company, Inc., and Michael J. Mingo at Everett and Tacoma, Washington, respectively.

4. To determine whether, from the facts shown in connection with the foregoing issues, the granting of the above application will serve public interest, convenience, or necessity.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Edward E. Reeder, 1627 Belmont Avenue, Seattle, Washington.

Dated at Washington, D. C., May 23, 1941.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 41-3726; Filed, May 26, 1941; 9:36 a. m.]

FEDERAL SECURITY AGENCY.

Office of the Administrator.

ORDER DELEGATING CERTAIN AUTHORITY TO THE ASSISTANT ADMINISTRATOR

Pursuant to the provisions of section 201 (c) of Reorganization Plan No. I (53 Stat. 1425) and sections 12 and 13 of Reorganization Plan No. IV (5 F.R. 2421), I, Paul V. McNutt, Federal Security Administrator, do hereby delegate to the Assistant Federal Security Administrator the authority to perform any of the duties and functions and to exercise any of the powers which, under the provisions of said Reorganization Plan No. IV, and under the provisions of the Federal Food, Drug, and Cosmetic Act, are vested in the Federal Security Administrator. This order shall remain in effect until expressly revoked by the Federal Security Administrator.

Done at Washington, D. C., this 26th day of May 1941. Witness my hand and the seal of the Federal Security Agency.

[SEAL] PAUL V. MCNUTT, *Administrator.*

[F. R. Doc. 41-3760; Filed, May 26, 1941; 11:57 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4506]

IN THE MATTER OF CALLAWAY MILLS, A CORPORATION

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (a) of section 2 of the Clayton Act (U.S.C. Title 15, section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Callaway Mills, is a corporation organized and existing under and by virtue of the laws of the State of Georgia, with its principal office and place of business at Lagrange, Georgia.

PAR. 2. Respondent is now and has been, since June 19, 1936, engaged in the business of manufacturing and selling tufted bedspreads, bath mats, rugs and allied products for use, and resale within the United States. In the course and conduct of its said business, respondent sells the aforesaid products to purchasers located in the various states of the United States, and causes said products, when sold, to be shipped and transported from its place of business in the State of Georgia across state lines to the respective purchasers thereof located in various states of the United States other than the State of Georgia. There is and has been, at all times mentioned herein, a constant current of trade in said products, between respondent, located in the State of Georgia, and its customers located in various other states of the United States.

PAR. 3. In the course and conduct of its business as aforesaid, respondent has been, and is now, engaged in substantial competition in commerce with other

manufacturers and sellers of tufted bedspreads, bath mats, rugs and allied products, who, for many years prior hereto, have been, and are now, engaged in manufacturing and selling and shipping such products in commerce across state lines to purchasers thereof located in the various states of the United States.

Many of respondent's customers are competitively engaged with each other and with the customers of respondent's competitors in the resale of said products within the several trade areas in which respondent's said customers respectively offer for sale and sell the said products purchased from respondent.

PAR. 4. In the course and conduct of its said business, since June 19, 1936, respondent has been and is now discriminating in price between different purchasers of said products of like grade and quality, which products have been and are being sold by respondent in commerce for use, and resale as aforesaid, by selling said products to certain of said purchasers at lower prices than the prices at which it sells products of the same grade and quality to other of its said purchasers, and by giving and allowing certain of said purchasers adjustments, rebates or discounts not given or allowed to other of respondent's said purchasers.

The aforesaid discriminations in price have been, at times since June 19, 1936, accomplished by respondent as follows:

(a) A rebate of five per cent has been granted and allowed to each customer who is a member of a buying syndicate if the annual purchases of such member customer aggregate a minimum of $500.00 and if, additionally, the total purchases of the member customers of the buying syndicate, through which the purchases of such member customer are made, aggregate a minimum of $10,000.00 annually.

(b) A rebate of five per cent has been granted and allowed to certain of respondent's large department store customers upon varying terms and conditions. Some of this class of customers were granted and allowed a rebate of five per cent when their individual annual purchases aggregated a minimum of $5,000.00. Others of this class of customers were granted a rebate of five per cent irrespective of the aggregate amount of their individual annual purchases, and the rebate was denied entirely to others of said class of customers irrespective of the aggregate amount of their annual purchases.

More recently and at the present time such discriminations in price are usually accomplished by respondent as follows:

(a) The respondent grants and allows a five per cent rebate to any retail customer or "individual recognized department store" customer on its purchases, if such purchases exceed $500.00 per year. Such rebate is entirely denied others of this class of customers whether or not their purchases, of the respondent's products, exceed $500.00 a year. Mail order houses are allowed a discount of five per cent and a rebate of five per cent without regard to quantity qualifications.

(b) One customer classified by respondent as a special wholesale distributor is allowed a ten per cent discount while other jobber customers of the respondent are allowed a discount of five per cent. Additional rebates based on annual volume are granted such jobbers as follows:

2% on net volume if volume totals $10,000.00.

3% on net volume if volume totals $15,000.00.

4% on net volume if volume totals $20,000.00.

5% on net volume if volume totals $25,000.00, or more.

PAR. 5. The effect of such discrimination in price by respondent, as set forth in Paragraph Four hereof, has been and may be substantially to lessen competition in said line of commerce in which respondent is engaged, and to injure, destroy and prevent competition with respondent and with those of respondent's customers who are granted the benefit of such discrimination.

Such discrimination in price by respondent between different purchasers of commodities of like grade and quality in interstate commerce in the manner and form aforesaid are in violation of the provisions of subsection (a) of section 2 of the Act described in the preamble hereof.

Wherefore, the premises considered, the Federal Trade Commission on this 17th day of May, A. D. 1941, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Callaway Mills, a corporation, Respondent herein, that the 20th day of June, A. D. 1941, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 17th day of May, A. D. 1941.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3715; Filed, May 24, 1941; 10:57 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-308]

IN THE MATTER OF THE UNITED GAS IMPROVEMENT COMPANY AND DELAWARE ELECTRIC POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE AND GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of May, A. D. 1941.

The United Gas Improvement Company, a registered holding company, and its subsidiary, Delaware Electric Power Company, having filed a joint declaration and application and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935, particularly section 10, 12 (b), and 12 (c), and Rules U-45 and U-46 thereunder regarding the following:

The United Gas Improvement Company proposes to make a cash contribution of not exceeding $7,000,000 to Delaware Electric Power Company so as to unable the latter to retire its 5½% Debentures outstanding in the principal amount of $6,920,000, thereby releasing all the capital stock of Delaware Power & Light Company, a subsidiary of Delaware Electric Power Company, which capital stock is pledged as security for the debentures. It is further proposed that Delaware Electric Power Company will reduce the stated value of its own capital stock from $12,000,000 to not less than $3,600,000. Delaware Electric Power Company then proposes to distribute the capital stock of Delaware Power & Light Company to The United Gas Improvement Company by way of a partial liquidating dividend; and

Said joint declaration and application having been filed on April 30, 1941 and amendments thereto having been filed on May 19, 1941, and May 21, 1941, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 under said Act, and the Commission not having received a request for a hearing with respect to said declaration and application within the period specified in said notice or otherwise, and not having ordered a hearing thereon; and

The United Gas Improvement Company and Delaware Electric Power Company, having requested that the effective date of said declaration and application, as amended, be advanced; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit said joint declaration, as amended, to become effective pursuant to said sections 12 (b) and 12 (c) and said Rules U-45 and U-46, and finding with respect thereto that the proposed transactions are not in contravention of any rules or regulations under said Act; and

The Commission finding with respect to said application under section 10 of said Act that no adverse findings are necessary under section 10 (b) and section 10 (c) (1) of said Act, and that the transaction involved has the tendency required by section 10 (c) (2) of the said Act; and

The Commission being satisfied that the date of permitting said declaration, as amended, to become effective and the date of granting said application, as amended, should be advanced;

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said Act, and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration, as amended, be and the same is hereby permitted to become effective and that the said application, as amended, be and the said is hereby granted.

By the Commission, Commissioner Healy dissenting in respect to the application for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3716; Filed, May 24, 1941; 11:46 a. m.]

[File No. 812-158]

IN THE MATTER OF T. I. S. MANAGEMENT CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of May, A. D. 1941.

An application having been filed by T. I. S. Management Corporation under the provisions of section 6 (c) of the Investment Company Act of 1940, for an order exempting from the provisions of section 15 of said Act, certain transactions by which control of said Corporation was transferred from one H. E. Van Buskirk to one Francis D. Crosby on or about March 31, 1941, and from said Francis D. Crosby to one Alexander W. O'Reilly on or about April 25, 1941;

It is ordered, That a hearing for the purpose of taking evidence on the question of such exemption be held at 10:00 o'clock A. M. on June 2, 1941, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1101 will advise the interested parties where such hearing will be held.

It is further ordered, That Willis E. Monty, Esq., is hereby designated as the officer of the Commission to conduct said hearing, and pursuant to section 42 (b), is hereby empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which are relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served upon said T. I. S. Management Corporation personally, or by registered mail, not less than seven (7) days prior to the time of hearing; and that said order and notice be served upon all other interested persons by publication thereof in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3717; Filed, May 24, 1941; 11:46 a. m.]

[File No. 812-159]

IN THE MATTER OF TRANSCONTINENT SHARES CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of May, A. D. 1941.

An application having been filed by Transcontinent Shares Corporation under the provisions of section 6 (c) of the Investment Company Act of 1940, for an order exempting from the provisions of section 15 of said Act, certain transactions by which control of said Corporation was transferred from one H. E. Van Buskirk to one Francis D. Crosby on or about March 31, 1941, and from said Francis D. Crosby to one Alexander W. O'Reilly on or about April 25, 1941;

It is ordered, That a hearing for the purpose of taking evidence on the question of such exemption be held at 10:00 o'clock A. M. on June 2, 1941, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1101 will advise the interested parties where such hearing will be held.

It is further ordered, That Willis E. Monty, Esq. is hereby designated as the officer of the Commission to conduct said hearing, and pursuant to section 42 (b), is hereby empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which are relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served upon said Transcontinent Shares Corporation personally, or by registered mail, not less than seven (7) days prior to the time of hearing; and that said order and notice be served upon all other interested persons by publication thereof in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3718; Filed, May 24, 1941; 11:46 a. m.]

[File No. 70-303]

IN THE MATTER OF SOUTHERN NATURAL GAS COMPANY, AND SOUTHERN PRODUCTION COMPANY, INC.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of May, A. D. 1941.

The above named parties having filed a declaration and amendments thereto

pursuant to the Public Utility Holding Company Act of 1935, particularly sections 7 and 10 and Rules U-23 and U-43 promulgated thereunder regarding the acquisition by Southern Natural Gas Company at a price of $1 per share of not less than 999,000 shares nor more than 1,099,000 shares of common capital stock, par value $1 per share, which is to be issued by Southern Production Company, Inc., 999,000 of said shares to be acquired immediately and the remainder thereof to be acquired at any time prior to June 30, 1942; and

Said declaration and application having been filed on April 22, 1941, and amendments thereto having been filed on May 5, 1941, and May 17, 1941, and notice of said filing having been duly given in the form and manner prescribed in Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The above named parties having requested that the effective date of said declaration and application, as amended, be advanced; and

The Commission deeming it appropriate in the public interest and the interest of investors and consumers to permit the said declaration pursuant to Rule U-43 to become effective and finding with respect to the declaration under section 7 of said Act that the requirements of section 7 (c) of said Act are satisfied and that no adverse findings are necessary under section 7 (d) of said Act, and with respect to the application under section 10 of said Act that no adverse findings are necessary under section 10 (b) and section 10 (c) (1) of said Act and that the provisions of section 10 (c) (2) are not applicable for the reason that the securities proposed to be acquired by the applicant are not securities of a public utility or holding company, and being satisfied that the effective date of such declaration, as amended, and the date of granting such application, as amended, should be advanced;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid declaration, as amended, be and hereby is permitted to become effective and that the aforesaid application be and hereby is granted forthwith.

By the Commission, Commissioner Healy dissenting for the reasons stated in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3752; Filed, May 26, 1941; 11:42 a. m.]

[File No. 1-1810]

IN THE MATTER OF ASSOCIATED GAS & ELECTRIC COMPANY

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23d day of May, A. D. 1941.

The Boston Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, $1 Par Value, and Class A Stock, $1 Par Value, of Associated Gas & Electric Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on June 2, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3753; Filed, May 26, 1941; 11:42 a. m.]

[File No. 70-18]

IN THE MATTER OF GENERAL WATER GAS & ELECTRIC COMPANY

ORDER PERMITTING WITHDRAWAL

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of May, A. D. 1941.

The above-named party having made application with respect to the purchase on the over-the-counter market of General Water Works Corporation Fifteen-Year 5% First Lien and Collateral Trust Gold Bonds, Series A, due June 1, 1943 (assumed by General Water Gas & Electric Company); and the Commission by Orders dated May 20, 1940, and July 31, 1940, having approved the aforesaid application in part and having reserved jurisdiction with regard to the use of funds to be received from Walnut Electric & Gas Corporation following the sale by said corporation of the assets of its subsidiary, South Carolina Utilities Company;

The applicant having advised the Commission that it now proposes to use funds so to be received for the call and redemption of bonds of the issue above described and that accordingly it requests withdrawal of the application aforesaid;

The Commission hereby consents to the withdrawal of the said application insofar as it relates to the use of funds to be received as aforesaid; and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3755; Filed, May 26, 1941; 11:42 a. m.]

[File No. 70-324]

IN THE MATTER OF PHILADELPHIA COMPANY AND STANDARD GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of May, A. D. 1941.

A declaration or application (or both) having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named parties;

It is ordered, That a hearing on such matter be held on June 5, 1941, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 3, 1941.

The matter concerned herewith is in regard to redemption of $60,000,000 principal amount of 5% Debentures of Philadelphia Company, a subsidiary of Standard Gas and Electric Company; and, to provide funds for such redemption, the issuance and sale of $48,000,000 principal amount of Collateral Trust Sinking Fund Bonds due July 1, 1961, $12,000,000 principal amount of Collateral Trust Serial Notes, maturing $1,200,000 principal amount each year for ten years and not to exceed 413,794 shares of Common Capital Stock, said

stock to be offered to the holders of the presently outstanding Preferred Five Per Cent. Capital Stock and Common Capital Stock at $7.25 per share pro rata according to their respective holdings. Standard Gas and Electric Company owns 4,634,530 shares of the Common Capital Stock and will have the preemptive right to subscribe for 391,076 of said 413,794 shares to be offered and to the extent necessary it will either reduce the number of shares to be subscribed for by it for purchase shares not subscribed for by other holders of said Capital Stock at said price in such an amount that the gross proceeds to Philadelphia Company from the issuance and sale of said Sinking Fund Bonds and Serial Notes and from subscriptions for additional shares of Common Capital Stock will aggregate $63,000,000.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-3749; Filed, May 26, 1941; 11:39 a. m.]

[File No. 812-79]

IN THE MATTER OF THE ATLANTIC COAST LINE COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of May A. D. 1941.

An application having been duly filed by the above named applicant under and pursuant to the provisions of the Investment Company Act of 1940 for an order under section 3 (b) (2) declaring it to be excepted from the provisions of said Investment Company Act, or in the alternative, for an order under section 6 (c) declaring it to be exempt from the provisions of said Act;

It appearing that a preliminary question of law is involved in the application as to whether applicant is "subject to regulation under the Interstate Commerce Act" within the meaning of section 3 (c) (9) of said Investment Company Act, a question, the affirmative determination of which would make it unnecessary to decide said application and appropriate to dismiss the same;

It is ordered, That a hearing before the Commission on the foregoing preliminary question of law be held on May 28, 1941 at 11:00 o'clock in the forenoon of that day in Room 1102 of the Securities and Exchange Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C.

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order by registered mail to applicant, and to the Interstate Commerce Commission; and to all other persons, such notice to be given by general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Investment Company Act of 1940 and by publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-3756; Filed, May 26, 1941; 11:43 a. m.]

[File No. 70-320]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of May, A. D. 1941.

A declaration or application (or both) having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named person, and notice having been given of the filing thereof by publication in the FEDERAL REGISTER and otherwise as provided by Rule U-23 under said Act; and

It appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers that a hearing be held with respect to said declaration or application (or both) and that said declaration shall not become effective or said application be granted except pursuant to further order of the Commission, and that at said hearing there be considered, among other things, the various matters hereinafter set forth; and

The declarant or applicant having requested that the date of such hearing be accelerated inasmuch as a public distribution of the securities covered by the declaration or application is contemplated, with competitive bidding as required by Rule U-50, and a rigid and limited time schedule must be followed; and the Commission finding that the hearing should be accelerated to the date hereinafter provided;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 3, 1941, at 10:00 A. M., at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of issues presented by said application or declaration, particular attention will be directed to the following matters and questions:

(1) Whether the proposed issuance and sale of $35,393,000 principal amount of First Mortgage Bonds, due 1971, and 120,000 shares of Cumulative Preferred Stock, $100 par value, are solely for the purpose of financing the company's business and in other respects satisfy the requirements of section 6 (b) of the Act.

(2) What terms and conditions, if any, in the public interest or for the protection of investors or consumers should attach to the issuance and sale of said bonds and preferred stock, or either of them.

(3) Whether the proposed reduction of the capital represented by the company's outstanding common stock, by transferring therefrom a sufficient amount to eliminate an anticipated earned surplus deficit, is in the public interest and in the interests of investors and consumers.

(4) Whether the proposed terms and conditions of the public bidding with respect to the issuance and sale of said securities comply with the provisions of Rule U-50.

(5) Whether the fees and other expenses to be incurred in connection with the proposed refunding program are reasonable and proper.

(6) What savings by the company may reasonably be anticipated as a result of such refunding program.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-3754; Filed May 26, 1941; 11:42 a. m.]

[File No. 60-2]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT DATED DECEMBER 14, 1937

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of May, A. D. 1941.

The Trustees Under Pension Trust Agreement dated December 14, 1937 (as amended), having filed application for an order pursuant to section 2 (b) of the Public Utility Holding Company Act of 1935, revoking the order of the Commission dated April 14, 1939, entered in the proceeding entitled "In the Matter of Employees Welfare Association, Inc. (Del.), Employees Welfare Association, Inc. (N. J.), Trustees under Pension Trust Agreement Dated December 14, 1937, File Nos. 60-2 and 60-3", in so far as such order declared the said Trustees to be a "subsidiary" of Associated Gas

and Electric Company under section 2 (a) (8) (B) of the Act, and an "affiliate" of New England Gas and Electric Association under section 2 (a) (11) (D) of the Act; and

It appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers that a hearing be held with respect to said aplication;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 12, 1941, at 10:00 A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 7, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3751; Filed, May 26, 1941; 11:39 a. m.]

[File No. 70-325]

IN THE MATTER OF THE NORTH AMERICAN COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of May, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party; and

Notice is further given that any interested person may, not later than May 31, 1941, at 1:00 p. m., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or any request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The Declarant, The North American Company, a registered holding company, proposes to pay on July 1, 1941 a dividend to its holders of common stock of record on June 10, 1941. Such dividend will be payable in the capital stock of The Detroit Edison Company, owned by Declarant, at the rate of one share of capital stock of The Detroit Edison Company on each 50 shares of common stock of the Declarant. No certificates will be issued for fractions of shares of stock of The Detroit Edison Company but in lieu thereof cash will be paid at the rate of 40¢ for each one-fiftieth of a share of stock of The Detroit Edison Company. The Declarant estimates that the payment of this dividend will result in a charge to earned surplus of approximately $4,119,432.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3750; Filed, May 26, 1941; 11:39 a. m.]